THE SUPREME COURT of OHIO

PROFESSIONALISM DOs & DON'Ts:

LEGAL WRITING

Issued by the Commission on Professionalism:

A substantial part of the practice of most lawyers is conducted through the written word. Lawyers communicate with other attorneys, courts, and clients through writing. Writings introduce judges to the facts of a case, state the applicable law, and argue for a desired action or resolution to a legal dispute. The most effective legal writing is well researched, clearly organized, logically sound, and professional in tone and appearance.

The Supreme Court of Ohio Commission on Professionalism has prepared this list of "DOs and DON'Ts" to guide lawyers in their professional writing. These points relate to many facets of attorney writing. In creating this list, the Commission does not intend to regulate or to provide additional bases for discipline, but rather to help promote professionalism among Ohio's lawyers. The list provides general categories of "DOs and DON'Ts" containing specific recommendations on form and content for specific types of writing.

DO

- DO MAINTAIN PROPER FOCUS
  - Do keep your purpose in mind while writing.
  - Do tailor your writing to your primary audience, but be aware that others may read what you have written.

DO

- DO PROVIDE A CONSISTENT, COHERENT ARGUMENT
  - Do research the applicable law thoroughly.
  - Do investigate the facts diligently.
  - Do plan and organize your writing.
  - Do make sure that any legal theory you present is consistent with applicable law.
  - Do use persuasive authority.
  - Do state clearly what you are requesting in motions and briefs.

- DO PRESENT AN HONEST, ACCURATE POSITION
  - Do include all relevant facts.
  - Do cite the record accurately.
  - Do disclose relevant authority, including adverse controlling authority.
  - Do update all cited authorities and exclude any reversed or overruled case.

- DO ADOPT A CLEAR AND PERSUASIVE STYLE
  - Do put material facts in context.
  - Do write in a professional and dignified manner.
  - Do put citations at the end of a sentence.
  - Do use pinpoint citations when they would be helpful.

- DO PROVIDE APPROPRIATE SIGNPOSTS
  - Do consider using headings and summaries.
  - Do use transitions between sections that guide the reader from one argument to the next, especially in longer pieces of writing.

- DO USE PRECISE ENGLISH GRAMMAR & CITATION FORM
  - Do proofread for spelling and grammar.
  - Do edit and redraft.
  - Do cite cases and authorities accurately.
  - Do use Ohio citation form (See *Supreme Court of Ohio Writing Manual*[1]).
  - Do adhere to the applicable court's technical requirements and rules for submitting documents, such as, for example, any restrictions on fonts, margins, and document length.

[1] *See* sc.ohio.gov/ROD/manual.pdf.

DON'T

- DON'T MAKE YOUR READER'S JOB MORE DIFFICULT
  - Don't use jargon or confusing acronyms.
  - Don't use boilerplate without tailoring to your specific argument or case.
  - Don't use string citations, unless parenthetical explanations follow.
  - Don't use lengthy quotations. Break up quoted language as necessary to simplify points.
  - Don't put important information in footnotes.
  - Don't overuse nominalizations, i.e., noun forms of verbs (e.g., "indication" instead of "indicate").
  - Don't overuse the passive voice.

- DON'T MAKE INAPPROPRIATE COMMENTS
  - Don't make ad hominem attacks.
  - Don't use hyperbole and sarcasm.
  - Don't use overly emotional arguments. Rely on logic and reason.

- DON'T MISCHARACTERIZE YOUR POSITION
  - Don't misrepresent.
  - Don't misquote.
  - Don't rely on non-record facts.
  - Don't plagiarize.
  - Don't lie.

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Appellate Writing Workshop

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Akron Bar Association, November 14, 2014

Jacquenette S. Corgan is a solo practitioner who focuses on appellate advocacy and general civil litigation. After graduating with honors from the University of Akron School of Law in 2000, Corgan became an Attorney Editor for Thomson-West Publishing in Cleveland, where she edited and supervised the production of major portions of the *Baldwin's Ohio Practice* series of treatises. She left Thomson-West in early 2002 to become an Associate with the plaintiff's-side boutique employment firm of Thompson & Bishop in Akron, and in 2005 became an Associate in The Law Office of Warner Mendenhall, Inc. Corgan began practicing on her own in the fall of 2009.

She has been licensed in Ohio since 2000. Corgan has also been admitted to practice before the U.S. District Courts for both the Northern and Southern districts of Ohio, the U.S. Court of Appeals for the Sixth Circuit, and the Supreme Court of the United States. She chairs the Akron Bar Association's Common Pleas and Appellate Court Committee; is a Trustee and member of the Amicus Committee for and the Summit County Association for Justice; and is a member of the Scanlon-Bell Inn of Court.

The law is Corgan's second career. For nearly 10 years, Corgan was a daily newspaper reporter and editor, serving as a staff writer for the *Buffalo News,* the *Medina County Gazette*, and the *Warren Tribune Chronicle* before becoming a masthead-level editor at the *New Philadelphia Times-Reporter.* She holds a Bachelor of Arts degree in Mass Media Communication from the University of Akron and a Master of Arts in Journalism from Kent State University. In 1995, she won the Ohio Newspaper Women's Association award for feature writing in the *Times-Reporter's* circulation class. She has also taught Newswriting to University of Akron undergraduates, Media Law to Walsh University undergraduates, and Law of Mass Communication to undergraduates and graduate students at Kent State.

Introduction

Legal writing is a craft, rather than an art. Still, it involves creativity, technique, and *thought.*

This workshop should make you think about your legal writing, help you focus your creativity so that you can apply it to your writing, and sharpen your technique.

You may think that it's not important to write well when you're writing for judges, because "they have to read it anyway." This thinking is dangerous. When you write an appellate brief, for example, you're condensing *all* of the trial court record and the legal arguments into a limited space. For you to make the case you need to make for your client, you must clearly and succinctly tell the judges what happened to get your client into the trial court, what happened at the trial court, why that was wrong, and how the appellate court ought to correct it. If you don't tell the judges the story of your case, they will not have a good idea of what happened. If you don't present your argument clearly, the judges will not understand it. If you don't show the judges how your argument applies to your facts, they are less likely to see your case the way you do.

I. Technique

A. Spelling, grammar, and punctuation

It probably sounds silly to remind people who have at least two college degrees about grammar, spelling, and punctuation.

Alas, it's not. Unless you've recently taken a class in which your grade is partly based on your grammar, spelling, and punctuation, you haven't had to care much about it for quite a while. Yet, these things are important. To any reader—whether it's a judge, a clerk, your opposing counsel, or even your opposing party—your credibility and the reader's assessment of your skills as a lawyer diminish with each technical error.

Grammar also affects clarity. Some sentence constructions are grammatically perfect, but still obscure your message. Passive voice is one example.

1. Spelling

If you have word processing software, and it has a spell-check feature, use it. Beware that spell-check features will not help when you type a perfectly valid word that isn't the word you need. For example, spell-check routinely misses the common error of referring to the lower court as a "trail court." It also misses homophones, such as when you type "I want two go too the pizza shop to," and sometimes it doesn't know the difference between "affect" and "effect."

Be careful about autocorrect features. They can quickly become the bane of your existence. You may want to turn off some of their suggested corrections, or turn the

features off altogether. For example, try typing "Peninsula," slowly, into the search line in Google or your computer's web browser. You'll get "penicillin"—if you're lucky. Or, try to type any section of a statute that contains (C), or refer to a document in the record as (R_), and watch them magically turn into © or ®. Just now, autocorrect tried to turn the first four letters of "document" into "docent."

If you have a dictionary, use it.

2. Grammar

This workshop will only cover some of the most common problems you should avoid.

Some word processing software includes a grammar check feature. It helps. It also helps to use that handy grammar and writing guide you probably had to buy during your freshman year in college. If you've still got it, use it. If you can get your hands on an *AP Stylebook*, it will help.

a. Passive voice

Passive voice is a perfectly valid English construction, but it's backwards and wordy, and lawyers use it far too often. In active voice, a sentence follows the usual "noun-verb-object" format we all learned in second or third grade. Passive voice leads with the object, and either hides or completely omits the actor altogether, in this type of construction: "Object was verb(ed) by noun," or "object was verb(ed)."

<u>Some examples:</u>

Passive voice:	Abel was struck three times by Cain.
Active voice:	Cain struck Abel three times.
Passive voice:	The sheriff, not the deputy, was shot by Robin.
Active voice:	Robin shot the sheriff, no the deputy.
Passive voice:	Williams was bitten.
Active voice:	Fluffy bit Williams.

Passive voice is appropriate when you want to emphasize the object receiving the action; when you want to de-emphasize or omit the actor committing the action; or when you don't know who committed the action in the sentence.

Otherwise, avoid using passive voice. As you can see from the first two examples, passive voice adds unnecessary words to each sentence. In the third example, it doesn't give the reader any idea who or what bit Williams. It could have been Fluffy the dog. It could have been a mosquito. It could have been a zombie. The reader wont' know.

Exercise: Identify examples of passive voice in the following passage, and suggest ways to reconstruct those sentences.

"Traffic at that intersection is usually controlled by a traffic light, but at the time of the collision a flashing arrow board dominant in both size and illumination was placed directly under the traffic light. This misplacement could easily give the perception to westbound motorists that it controlled the intersection. Doe was proceeding westbound. Not only was the westbound traffic not given the minimum required warnings, but also the warning signs were improperly positioned (as to height and distance): these breaches affected the motorist ability to read and to react. Appellees' further condensed the warning devices (signs, barrels and arrow board) when they were not working (nights and the weekend in question), protecting only their equipment and themselves. This further condensed the time motorists were given to react and safely pass through the zone."

b. Nominalizations

Nouns we form from other parts of speech are called nominalizations. Some call them "zombie nouns," and they stagger through legal writing like an episode's worth from "The Walking Dead," dragging extra words with them.

Examples include:

Verb	Nominalization	Example
Determine	Determination	The commission *determined*... The commission *made the determination that*...
Agree	Agreement	The parties *agree*... The parties *are in agreement*...
Establish	Establishment	The Defendant *agreed to establish*... The Defendant *agreed to the establishment of*...

Interrogate	Interrogation	Det. Shootem *interrogated* Nogood. Det. Shootem *conducted the interrogation of* Nogood.
Admit	Admission	Shooter *admitted* he killed Victim. *By Shooter's admission*, he killed Victim.
Assume	Assumption	Plaintiff *assumed* Defendant would pay. Plaintiff *made the assumption* that Defendant would pay.

You can't always avoid them. For example, the sentence, "*Dumping* hazardous waste along the roadside violates EPA regulations," is less wordy than, "When one dumps hazardous waste along the roadside, that act violates EPA regulations." Just use them sparingly.

c. "That" vs. "Which"

Many of us use the word "that" wuite often, but misuse the word "which."

That. Use the conjunction "that" to introduce a dependent clause if the sentence looks or sounds awkward without it.

You can omit it when a dependent clause immediately follows a form of the verb, "to say." Example: "Attorney Howe said he signed the complaint."

Use "that" when:

- A time element intervenes between the verb and the dependent clause. Example: "Attorney Howe said Monday that he had signed the complaint."
- After verbs such as "advocate," "assert," "aver," "contend," "declare," "estimate," "clarify," "point out," "propose," and "state."
- Before subordinate clauses beginning with conjunctions such as "after," "although," "because," "before," "in addition to," "until," and "while."

When in doubt, use "that." Omission can hurt. Inclusion doesn't.

Which. Use "which" to introduce a nonessential clause, as described below. One handy guideline is this: Use "which" after a comma.

d. Essential and nonessential clauses

These are also known as restrictive and nonrestrictive clauses. Both essential and nonessential clauses provide additional information about a word or phrase in the sentence.

You can't eliminate an essential clause without changing the meaning of the sentence. It's also called a restrictive clause because it restricts the meaning of the word or phrase, and its absence would lead to a substantially different interpretation of the author's meaning. On the other hand, you can eliminate a nonessential or nonrestrictive clause from the sentence without radically altering its meaning.

Do not set off an essential clause with a comma! Use "that" to introduce the essential clause, unless you're referring to a person or a named animal; in those cases, use "who" or "whom."

You must set off nonessential clauses with commas. Use "which" to introduce nonessential clauses, unless you're referring to a person or a named animal; again, in those cases, use "who" or "whom."

e. Parallelism in a sentence

Parallel structure is a sentence arrangement that organizes all related phrases or clauses so that they have the same pattern or refer to the same thing. It also applies to lists. You should construct each sentence or list so that all of the parts that do the same thing also take the same form.

Examples:

Faulty: Jones reluctantly realized it was time for him to grow up and *facing the facts of real life.*
Parallel: Jones reluctantly realized it was time for him to grow up and *face the facts of real life.*

Faulty: The company expected the plaintiff to work hard, *acting* "feminine," and *looks* approachable.
Parallel: The company expected the plaintiff to work hard, *act* "feminine," and *look* approachable.

Faulty: In order to find Nogood guilty, the State had to prove: 1) that he *was knowing*; 2) *attempted or committed* a theft offense; 3) *brandishing or possessing* a firearm.
Parallel: In order to find Nogood guilty, the State had to prove: 1) that he *acted knowingly*; 2) that he *attempted or committed* a theft offense; and 3) that he *brandished or possessed* a firearm.

Faulty: *After writing the traffic ticket*, Mr. Suspect gave officers his consent to search the car.
Parallel: *After Ptl. Shootem wrote the traffic ticket*, Mr. Suspect gave officers his consent to search the car.

(Note that in the faulty sentence, it seems like Suspect wrote his own traffic ticket. Make sure that your sentences clearly tell the reader who performed what action.)

3. Punctuation

a. Commas

Commas are used to:
- Indicate a pause;
- Join dependent clauses; and
- Set of nonessential clauses.

Punctuating independent and dependent clauses. Independent clauses can stand alone as sentences. Dependent clauses cannot.

Use a semicolon to joint independent clauses. Use a comma to join dependent clauses.

Examples:

Independent clauses: "Beethoven was not born in Austria" and "He moved to Vienna when he was 22" are complete sentences on their own. Join them with a semicolon: "Beethoven was not born in Austria; he moved to Vienna when he was 22."

Dependent clauses: "Beethoven moved to Austria at age 22" is a complete sentence. The phrase "when he began studying with Haydn" is not. Join them with a comma: "Beethoven moved to Austria at age 22, when he began studying with Haydn."

Use the Oxford comma. Yes, the Associated Press and all the news outlets who follow it have taught you not to. This is one of those instances where you must ignore the Associated Press. The Oxford or serial comma is important. It clarifies.

Examples:

No comma:	He eats shoots and leaves.
AP Style:	He eats, shoots and leaves.
Oxford comma:	He eats, shoots, and leaves.

You have probably seen people use commas as a substitute for the word "and." For example: "President, Vice President confer over attorney general replacement."

The quoted material isn't a sentence. It's a headline. The newspaper industry established different rules for headlines, which are not part of the news story. Don't write headlines when you're writing a brief.

b. Apostrophes

Use apostrophes in contractions (which are Ok in legal writing) or in possessives.

Please, please, please, *dear God, I'm begging you! DO NOT* use an apostrophe to indicate a plural!

DO NOT DO THIS: "A bushel of apple's." It's: "A bushel of apples."
OR THIS: "1000's and 1000's of dollars" Use: "Thousands and thousands of dollars."
OR EVEN THIS: "Carter was president in the 1970's." It's "1970s."

c. Punctuating quotations

Except for colons and semicolons, punctuation marks go *inside* the final quotation mark.

Examples: Victim said, "I want to go home."

Before the *Thompkins* decision, the Eighth District Court of Appeals said an appellate court should review the following in order to determine whether a verdict was against the "manifest weight": ...

d. Dashes

You can use dashes to denote an abrupt change in thought in a sentence or an emphatic pause, or you can use them to set off a series of words that must be separated by commas.

Examples: Morgan will fly to Paris in June—if the University approves her trip.

Amy applied three times—and UA rejected her three times.

The mayor listed three main qualities—dependability, trustworthiness, and loyalty—that she wanted in an assistant.

B. Style

The word "style" means many things. It refers to the level of formality or informality in a written work. It refers to the highly individual way you craft your written work, especially when you become a more confident writer. It also refers to specific, consistent guidelines for they way you will refer to such things as people, dates, and numbers. We will focus on this last definition.

A few sources govern legal writing style in Ohio. They include:

- The applicable Rules of Court. Pay close attention to the Rules! For example, when you write an appellate brief, you must follow the Ohio Rules of Appellate

Procedure, and the Local Rules for the Court of Appeals. The Appellate Rules themselves dictate the general structure of your brief, but the Local Rules refine that structure.

For just one example, the Local Rules for the Ninth District Court of Appeals modify the Appellate Rules' page limitations, and allow you to use a word-count type-volume limitation rather than a page limitation... but also require you to stick to two preferred typefaces and print everything in a 14-point type size if you do. The Eleventh District requires you to list your authorities under each Assignment of Error in the Table of Contents. It's hard to summarize, so read their Local Rules.[1]

- The Supreme Court of Ohio's Writing Manual. Get it online here: http://http://www.supremecourt.ohio.gov/ROD/manual.pdf The Writing Manual covers citation style *and* such things as whether you may abbreviate the word, "December."

These are also helpful:

- *The Harvard Bluebook.*
- *The Legal Writer: 40 Rules for the Art of Legal Writing,* by Judge Mark Painter of the First District Court of Appeals.
- *The Elements of Style*, by E.B. White and William Strunk, Jr.
- The English grammar reference you probably bought when you took English Composition as a freshman in college.
- *The Associated Press Stylebook and Briefing on Media Law*. This is a handy guide, but *only* when you can't find something anywhere else.

  For instance, the *AP Stylebook* tells you how to use (or not use) courtesy titles on second reference, and why you should only use "copyrighted" as the past tense of the verb "copyright." However, the *AP Stylebook* will conflict with the Supreme Court's *Writing Manual* from time to time. Follow the *Writing Manual* rather than the *AP Stylebook.*

[1] By the way, whoever's done the programming for most of our word processing software must never have worked near a print shop. The term "points" refers to the height of typeset letters, not their font.

1. Citation style

The Ohio Supreme Court re-wrote its case citation style rules a few years ago. Many lawyers didn't pay attention.

You should.

First, the Court expects you to follow the rules. For instance, Ninth District Local Rule 7 refers to them:

> **(G) Case Citations**. Case citations must include volume number, page number, and the particular page numbers relevant to the point of law for which the case is cited. Where available, case citations must include the webcite and paragraph reference in accordance with the Supreme Court of Ohio's citation format.

Second, when you don't follow the rules, you invite distraction when you don't want the judges or their clerks to be distracted from your important argument.

Bad citations distract by annoying people people who expect you to follow the rules; diminishing your credibility; and detracting from your argument.

Then, bad citations can make it more difficult for the judges, their clerks, and your opposing counsel to find the cases you're citing, especially when you're citing to unreported decisions. You may have found the Most Awesome Case In the Entire World, the one that says exactly what you need for your case and makes you throw up your hands in joy. If the clerks and the judges can't find it to read it, they won't be able to confirm the glowing things you said about the case in your brief. They may even suspect you made it up (which is very, very, *very* bad). Your opponent may note in their brief that they couldn't find the case, and argue that the Court ought to disregard all of the arguments you made that you based on that glorious decision. In other words, the argument you made based on that case may be toast.

The Ohio Supreme Court's *Writing Manual*

You will find the Court's *Writing Manual* online here: http://www.supremecourt.ohio.gov/ROD/manual.pdf

DO NOTE that you will cite cases decided before May 1, 2002, differently than you will cases decided on or after May 1, 2002! Also note that the research websites like Westlaw, Casemaker, Fastcase, Lexis-Nexis, etc., don't necessarily follow Ohio's citation formats.

The following are the general citation formats for court cases. DO review the *Writing Manual* for more detailed instructions, such as for cases that lack a secondary reporter or webcite citation; how to use a pinpoint citation; how to cite to administrative board decisions (such as the Board of Tax Appeals); how to cite to the Ohio Revised Code; how

to cite to federal cases and statutes; and etc. The Court also has an "Ohio Citations At A Glance" section starting at p. 21 of the *Manual*.

Ohio Supreme Court cases

Decided before May 1, 2002: *Lorain Cty. Bar Assn. v. Kennedy*, 95 Ohio St.3d 116, 766 N.E.2d 151 (2002).

Decided on or after May 1, 2002: *Ellwood Engineered Castings Co. v. Zaino,* 98 Ohio St.3d 424, 2003-Ohio-1812, 786 N.E.2d 458.

Ohio Appellate Court decisions

Decided before May 1, 2002: *State v. Crandall*, 9 Ohio App.3d 291, 460 N.E.2d 296 (1st Dist.1983).

State v. Croston, 4th Dist. Athens No. 01CA22, 2001 WL 1346130 (Oct. 30, 2001).

Decided on or after May 1, 2002: *State v. Jones*, 154 Ohio App.3d 231, 2003-Ohio-4669, 796 N.E.2d 989, (8th Dist.)

State v. Jones, 10th Dist. Franklin No. 02AP-1390, 2003-Ohio-5994.

Ohio Trial Court cases

Decided before May 1, 2002: *Welter v. Welter*, 27 Ohio Misc. 44, 267 N.E.2d 442 (C.P.1971).

Fairfield Cty. v. Allstate Ins. Co., Franklin C.P. No. 91CVH02-1112 (July 24, 1992).

Porter v. Cent. Auto Elec. & Radiator Shop, Inc., New Philadelphia M.C. No. 70980CVF-124, 1990 WL 693198 (Nov. 26, 1990).

Decided on or after May 1, 2002: *In re Wurgler*, 136 Ohio Misc.2d 1, 2005-Ohio-7139, 844 N.E.2d 919 (P.C.)

O'Brien v. Ohio State Univ., Ct. of Cl. No. 2004-10230, 2006-Ohio-1104.

Short-form citations

The Court does not have strict rules for the short-form citations we use when we cite a case a second or subsequent time. Its guidelines (starting at page 59 of the *Manual*) generally ask you to give enough information in the short-form citation for the reader to find the case in the official reports.

Signal words

Signals introduce legal authority, to tell the reader why we're citing this particular case. Italicize them. If the signal word begins the "citation sentence," capitalize it. Check the *Writing Manual*, starting at page 63.

These are some of the most common signals:

No signal - Don't use a signal before a citation when the citation gives direct support for your point, as when you're quoting or paraphrasing language from the source.

Accord - Use it to introduce additional citations that directly support the point.

See - Use it when the citation provides clear *but indirect* support, such as when the source doesn't state the proposition exactly.

See also - The "see" version of "accord." Use it to introduce more sources that indirectly support your point.

C.f. - Don't use it! When you're introducing a citation that you want the judges to compare with the source you've just cited, use *Compare* rather than *c.f.* Then, explain it in a parenthetical.

Contra - Use it if the source directly contradicts your point. Also explain it in a parenthetical.

E.g. - Follow it with a comma, and use it when the source you're citing directly supports the proposition, and several other cases say the same thing. This is one way to avoid using a string cite. If the example source indirectly supports the proposition, use *see, e.g.*, followed by a comma.

2. Other points of style

Avoid using string citations. The Courts disfavor them.

More, from the Supreme Court of Ohio *Writing Manual*, starting at p. 87.

Names, honorary titles, and proper nouns

Only capitalize proper nouns and proper adjectives. Capitalize a person's title when you use it immediately before the person's name, as a part of the person's name.

Examples: Common Pleas Court Judge Patricia Cosgrove
Judge Parker
Parker, judge of the Common Pleas Court
U.S. Rep. Tim Ryan
late former congressman James A. Traficant, Jr.
Summit County prosecuting attorneys
attorney Emershaw

You don't have to use courtesy titles on second and subsequent reference. Do use them when they help the reader's understanding.

Examples: *First reference*: Dr. Marcus Welby; or Marcus Welby, M.D.
Second reference: Welby

First reference: Eleanor Roosevelt
Second reference, ordinarily: Roosevelt
Second reference, if Franklin, Theodore, or any other Roosevelt were part of your narrative: Mrs. Roosevelt; the first lady; or U.N. Ambassador Roosevelt

See *Writing Manual*, starting at p. 89.

DON'T refer to people by their roles in the case, such as "Appellant," "Appellee," or "Defendant." It's confusing. The judges have said in seminar after seminar that they don't like it.

Dates

Spell out months, unless they are enclosed in parentheses (such as at the end of a citation.) Spell out the days of the week.

Example: Cops arrested Waddles on October 31, 2014, and he appeared in Akron Municipal Court on November 4.

Within parentheses, abbreviate the months as follows:

Jan.	May	Sept.
Feb.	June	Oct.
Mar.	July	Nov.
Apr.	Aug.	Dec.

Writing Manual, p. 76. Also see p. 91 about how to use dates in text.

Numbers

Cardinal numbers

Spell out one through nine. Use numerals above 10, and you may replace strings of zeros with "thousand," "hundred thousand," "million," and so on.

Spell out any number that begins a sentence. For example: "Forty-eight years ago, the Supreme Court decided *Miranda v. Arizona*."

At pp. 93-95 of the *Writing Manual*, the Court listed other examples that allow you to use:

9 m.p.h.
14-year-old
12 years old
$1.5 million
5 percent
.45-caliber

Ordinal numbers

Use numerals—but don't use superscript to abbreviate st, dn, and rd. Ex: 9th, not 9th.

Abbreviations

The *Writing Manual* has a good list of abbreviations starting at p. 76. The *Manual* also shows how to use them within parentheses in citations at p. 75.

Jargon

Avoid jargon like the plague. Jargon words have a specific meaning for a specific group, but serve only to confuse people outside that group.

For example, the average Joe Citizen probably won't know what a cop means when he says that a car license plate "came back to" someone. People who aren't in the

construction industry probably won't understand why it's significant that an architect has "specified" a type of paint or wallpaper, and people who have never worked in news won't understand the significance of a byline, much less understand what a three-deck drop hed is.

Translate jargon for the reader. A byline, for example, is that line at the top of the story that literally tells you who wrote it, such as, "By Lois Lane, *Daily Planet Staff Writer*." A three-deck drop hed is a three-line secondary headline.

Attribution

"Attribution" means the way one identifies one's source. For example, the sentence, "Shootem said Waddles is in jail," attributes the verbal statement that Mr. Waddles is in jail to Police Lt. Shootem. "Said" is the most common, and one of the most objective. Other examples from legal writing include "testified," and "wrote," which are equally objective.

"Averred" shows up in legal writing and in court decisions. Be careful when you use it, because it has a very specific meaning, and is not the equivalent of "said" or "testified." Merriam-Webster's Dictionary says this about "aver":

> aver |əˈvər|
> verb (**avers**, **averring**, **averred**) [reporting verb] formal
> state or assert to be the case: [with clause] *: he averred that he was innocent of the allegations* | [with direct speech] *: "You're the most beautiful girl in the world," he averred.*
> • [with obj.] Law allege as a fact in support of a plea.
> ORIGIN late Middle English (in the sense ***'declare or confirm to be true'***): from Old French ***averer***, based on Latin ***ad 'to'*** (implying ***'cause to be'***) + ***verus 'true.'***

Avoid using the other words that aren't as neutral as "said," "testified," or "wrote" in your Statement of Facts. Save words such as "admit," "claim," and "argue," for your Law and Argument section.

If you want to quote a passage from a case, you may want to omit the citations that would appear in the quotation. You may—but add "(Citations omitted.)" immediately after the quoted material, but before the citation. The *Writing Manual* shows you how, on pages 69-70. If you quote a case that quotes another case, you attribute the internal quotation by adding after the citation, "quoting," followed by the citation of the case that the court quoted.

II. Storytelling

The toughest things to write in an appellate brief are the Statement of Facts, the Assignments of Error, and the Issues for Review. These are the sections where the craft of storytelling comes into play.

Exercises: The Mary Brown fact pattern[2]

Mary Brown graduated from Sarah Lawrence College as an English major in 2012. She is 24 years old.

She likes bloody Marys. She is afraid of mice.

Her parents are Samuel and Elizabeth Brown of 142 Saratoga Ave. She lives with them.

She was vice president of her senior class at Bennett High School.

At age 14, on a trip to West Virginia, she was critically injured when her father's car and another collided.

She is a brunette, 5 feet 4 inches and 110 pounds.

There are no visible scars from the accident, but she walks with a slight limp.

"We're proud of Mary," Elizabeth said. "It took real courage to do what she did."

The burglar is believed to have entered through an unlocked rear door.

The bronze candlesticks were sent to the Browns by a friend who was traveling in India.

Police have filed a charge of second-degree burglary against Wesley Waddles, who said he arrived in Buffalo last week-end from Yakima, Wash.

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[2] This set of facts (with a few changes) comes courtesy of the late Foster Spencer, Managing Editor of the *Buffalo News*. Until 1989, the newspaper used this set of facts as a writing test during intern interviews. It instructed interviewees, "The following is a set of facts gathered by reporters. Your job is to weave them into a concise, interesting story."

A bag found in the Browns' kitchen contained several items gathered by the thief as he prowled through the house. Among them was a $200 Egyptian camera and one of the candlesticks.

The Browns' pet poodle slept through it all in an upstairs room.

"She's stronger than we thought," said Mary's father. "And quite a bit stronger than the burglar thought. She gave him a real whack."

Mary had just returned from a date with her fiancé, Max Wax of 231 Colvin Ave., when she heard a noise in the darkened family room.

Waddles reportedly had 23 stitches taken in his head after police rushed him to Emergency Hospital.

The candlestick weights about 3 pounds, Police Lt. John Shootem of the Colvin Station reported.

Mary's sleeping parents were awakened when Waddles fell against a table and smashed it.

"That girl ought to be a baseball player," Lt. Shootem said. "She apparently has a swing that would put Babe Ruth to shame."

Waddles, who was lodged in the Erie County Jail, will be arranged on Tuesday. Police said his head is swathed in bandages.

Mary, investigating the noise, surprised the burglar at work. When he turned toward her, she took several quick steps to grasp the candlestick and warn him away. When he advanced, she hit him.

Police said they were called at 1:10 AM. They identified the caller as Mr. Brown.

Mr. Wax had left Mary at the door and headed home.

“I guess it was just reflex,” Mary said. “You know how it is - you just do something without thinking about it. I was very surprised to see him sprawled on the floor unconscious.”

Buffalo police are checking with authorities in Yakima to see whether Waddles is wanted there.

He had been staying at a Franklin St. rooming house. Police gave his height at 6 feet 2 inches and said he weighs 210 pounds.

-30-

For our purposes, let’s add the following facts to the scenario:

Add 1:

Waddles was still unconscious when Buffalo police got him to Emergency Hospital. When Waddles came to, he was groggy for about 20 minutes.

At the hospital, Sgt. Edgar Gungho stood at Waddles’ bedside. A uniformed off-duty Buffalo policeman hired to provide hospital security stood just inside the door to Waddles’ cubicle at the ER.

When Waddles awoke, Gungho asked Waddles about the burglary at the Browns’ home. Gungho said Waddles’ speech was slurred, but Gungho wrote a report saying Gungho admitted burglaries at the Browns’ and three other houses along Saratoga Ave. that evening.

After getting that information, Gungho gave Waddles the *Miranda* warnings. He did not ask Waddles if police had permission to search Waddles’ car.

While Waddles was at the ER, officers found a car with Washington plates parked along Saratoga Ave., three houses down from the Browns'.

Shootem ordered the car impounded and searched. The passenger compartment contained five fast-food bags, two empty beer cans, an empty baggie that smelled of marijuana, and an empty iced tea bottle. The trunk contained items later reported as being stolen in three other break-ins at other houses in Buffalo.

-###-

A. Theme and Structure - Overview

Litigators often recommend that trial lawyers find a "theme" for their case. They touch on that theme throughout the trial, and try not to lose sight of that theme. It helps them to tell their client's story.

In seminars, appellate judges repeatedly ask us to tell them our clients' stories. So in appellate work, too, it's good to have a theme when you handle an appellate case. Don't worry about cooking up anything esoteric. In appellate work, if you can answer this one question, briefly and simply, you will have your theme:

What is your case about?

Answering this question is generally easier for people who have been trained in journalism. Like legal writing, journalism is highly focused, practical writing—but unlike lawyers, journalists spend a lot of time learning how to tell a story. Then, they think each and every workday about how they will tell each and every story—and they do this under deadline pressure that's often more intense than anything any lawyer will experience.
You can easily apply the storytelling lessons journalists learn and the methods they use to your legal writing, and to your great benefit.

The Five "W"s and an "H."

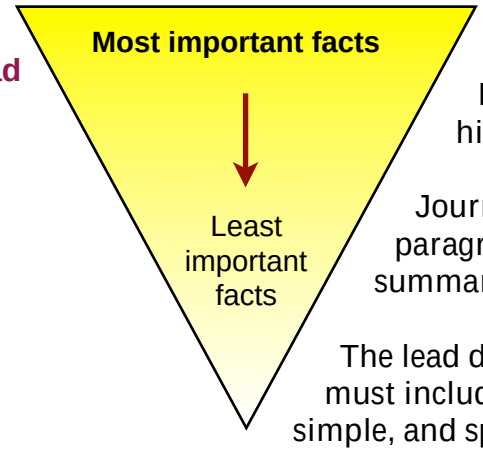
Who	When
What	Why
Where	How

It will be difficult for you to omit important facts from your statement of facts if you think of the five "W"s and an "H" as questions, and strive to answer them all.

1. The lead = your theme

One of the first lessons student journalists learn is about the *inverted pyramid* story structure, and the *summary lead* (sometimes spelled *lede*).

In an inverted pyramid story, the reporter writes the story so that the most important information appears first, and then the other facts in order of diminishing importance, like this:



The Lead

The first paragraph (the *lead* or *lede*) summarizes the *most* important facts; hence, the *summary lead.* It must capture the interest of the reader and entice him or her into reading further.

Journalists are trained to write one- or two-sentence paragraphs, and this includes the lead paragraph. So, the summary lead must be only one or two sentences long.

The lead doesn't have to answer all five Ws and an H. Instead, it must include the most important of them. It must be concise, simple, and specific. It must use strong, active verbs, but may use the passive voice if it's unavoidable. It must emphasize the magnitude of the story, but still be objective.

Some of the things journalists avoid are:

- Leading with the beginning of an event. Ex: "City Council opened its meeting Tuesday with the Pledge of Allegiance."
- Leading with a quotation—unless it's an Earth-shattering quotation, such as, "'I will resign,' President Nixon said today."
- "Label" leads that gently brush at the topic. Ex: "City Council discussed ways to keep residents from losing their homes to foreclosure."
- Jargon or unfamiliar terms
- Lists
- Exaggeration
- Obvious things. Ex: "The weather was beautiful yesterday."
- Leading with a question, unless it's a doozy. (Only Andy Rooney of "60 Minutes" could get away with the "have you ever wondered... ?" question lead.)

What the devil does this have to do with legal writing? Well, <u>if you can write a summary lead for your case, you've answered the question, "What is your case about?"</u> You have your theme.

Can you put your theme/lead in the appellate brief?

In appellate work, having a theme is important to your understanding of the essence of your case, because it helps to keep your writing from wandering fecklessly from point to point. Still, you can present your theme to the judges in an Introduction to the brief. An

Introduction is not one of the parts of the brief that the Rules of Appellate Procedure or even any Court of Appeals' Local Rules require. Some judges really like an Introduction when it tells the judges what your client's case is about; it can help the judges understand your client's case, and how each Assignment of Error fits into your client's case.

You probably should not make your theme the first paragraph of your Statement of Facts.

Exercise: Using the Mary Brown fact pattern, write a summary lead.

2. Assignments and Issues

Once you've learned how to write a summary lead, you'll find it a little easier to write assignments of error and issues for review.

For the authoritative guide to the Ninth District's expectations, look at Appendix B in the Court's Local Rules. Find them here: http://www.ninth.courts.state.oh.us/localrules.htm

Assignments. Assignments of Error must briefly and succinctly tell the Court that there was an error in your client's case. It's helpful to treat each Assignment like the summary lead for each error; so, don't burden each Assignment with an overload of facts. For instance:

> Assignment of Error I: Pervasive and sensational pretrial publicity destroyed Joe Schmoe's ability to have the fair trial guaranteed to him by the U.S. and Ohio Constitutions. (T., 1000-1200.)
>
> Assignment of Error II: Schmoe's conviction was against the manifest weight of the evidence, which mandates reversal. (T., *passim.*)

Remember, the optimal number of Assignments of Error is five or fewer. If you have more than five, the strength of *all* your Assignments decreases with every added Assignment. Note that you *can* address multiple violations of the same right under one Assignment.

For example, if your client's trial counsel failed to move to suppress evidence, told your client on the record that he could address every error in an appeal even if he pleaded guilty, and failed to request a pre-sentence investigation report, you don't have to raise each one of these omissions as separate Assignments of Error. Instead, you could make each omission an Issue for Review under a single Assignment, thusly: "Client was denied the effective assistance of counsel guaranteed to him by the Sixth Amendment, meriting reversal."

Issues. The Ninth District's instructions about Issues for Review are explicit. See Appendix B. The Court expects an Issue to contain 75 or fewer words, and the following three parts in this order: 1) A legal premise; followed by 2) facts demonstrating that the legal premise applies to this case; and finally 3) a question.

DON'T just pop the word "Whether" in front of your the Assignment of Error, pop a question mark on the end, and assume that it will pass for an Issue for Review. The Court specifically says, "The word 'whether' should not appear anywhere in the issue." It also lists the following principles for writing a good issue for review, from Bryan A. Garner, *The Elements of Legal Style* (2002):

- Don't cram everything into one sentence;
- Limit yourself to 75 words;
- Interweave facts into the issue, and keep them in chronological order; and
- Your last sentence must flow directly from the ones before it. See Appendix B.

Appendix B to the Court's Legal Rules gives the following example:

> The excited utterance exception allows a declarant's statement to be admitted if it is made under the stress of a startling event. Officer Johnson testified that he talked to Smith 30 minutes after Smith had made a 911 call reporting that he had been assaulted. Smith told Officer Johnson, "Bob hit me with a baseball bat." Was Officer Johnson's testimony repeating what Smith told him admissible as an excited utterance?

Note that the Court's example is a model for the three-sentence structure. The first sentence states the legal premise. The second provides facts demonstrating how the premise applies to this case. Finally, the third sentence poses the question.

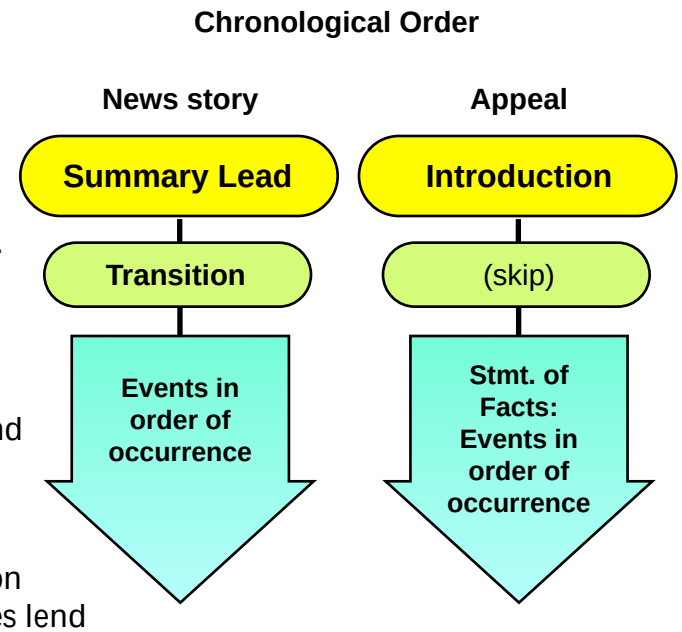
3. Storytelling structures - More than just the inverted pyramid

Once you've found your theme, there are other story strucures that will probably be more helpful for appellate writing than the inverted pyramid.

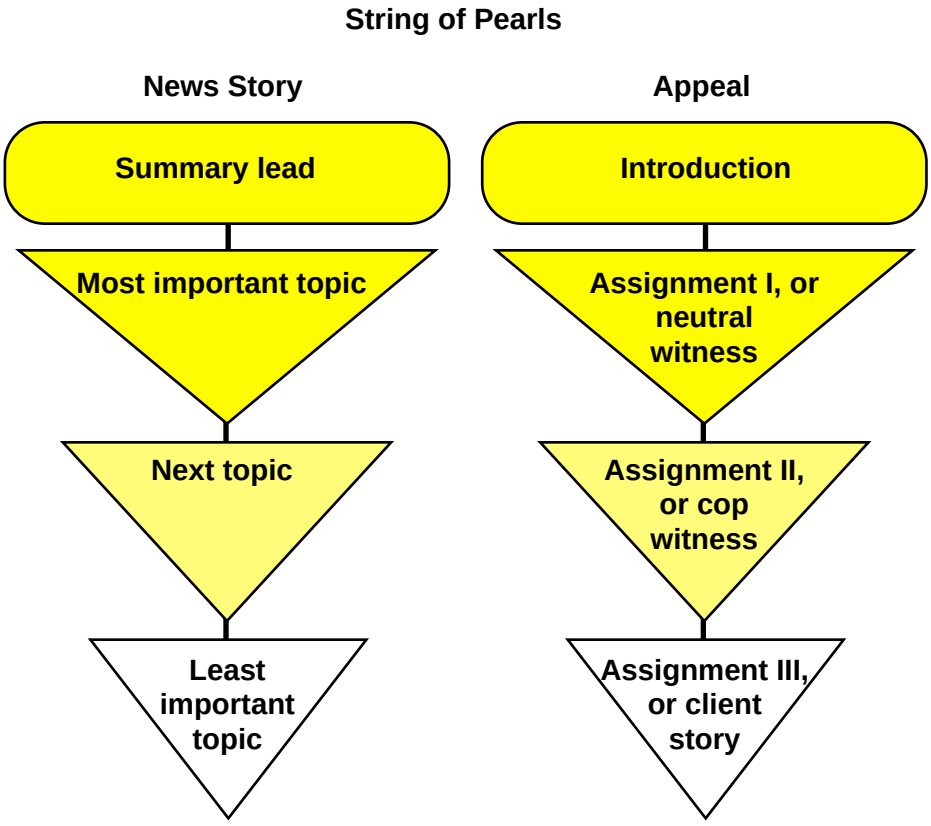
Chronological order. Generally, this story structure begins with a summary lead, followed by a transition paragraph, and then followed by a recitation of events in the order in which they occurred.

In an appellate brief, you could present your theme in an Introduction, and recite the events that led up to your client's arrest in the order in which they occurred—NOT the order in which the witnesses testified to them!

Note that in some cases, it makes logical sense to combine the Statement of the Case with the Statement of the Facts, especially when the proceedings that led up to your client's conviction are as or more important than the events that led up to your client's arrest. You can use headings such as "Factual history" and "Procedural history" as signals for the judges.



String of Pearls. Journalists often find that they have to write about multiple related topics in a single story, such as when they cover a city council meeting where the council discussed and voted on several pieces of legislation. Such stories lend themselves to "string of pearls" structure.



In a "string of pearls" story, the reporter begins with a summary lead that either sums up the entire story (but not something idiotic like, "City Council did a lot of stuff") or summarizes the most important of the topics.

Then, after a brief transition paragraph, the reporter tackles topic after topic in declining order of each topic's importance in little mini-inverted-pyramids, until the reporter runs out of material.

In appellate writing, this structure can be useful:

- In a Statement of Facts, when you have parallel sets of events taking place simultaneously; and
- To envision the structure of your Law and Argument. Think of each Assignment of Error and each subsequent Issue for Review as pearls on the string.

B. Using relevant facts

By the time you sit down to write your brief, you should:

- Know which assignments of error you want to raise;
- Have an outline for your arguments; and
- Know what kind of relief you want the appellate court to grant your client.

When you write your Statement of Facts, report the objective facts that are relevant to your arguments. Don't recite facts that don't make a difference in your client's case.

Evidence Rule 401 can help. Just as "relevant evidence" means "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence," "relevant facts" are facts that are of consequence to the determination of the appeal.

For example, when there's no question that your client shot an unarmed man three times and killed him, it's probably not going to be necessary to describe the bullets the cops found at the scene, or to repeat the medical examiner's testimony that one bullet struck his foot, one bullet grazed his ear, and the last bullet pierced his heart and killed him.
Toxicology reports that show the dead man was stoned out of his mind on bath salts also won't be relevant—unless, of course, your client is arguing he should have been allowed to introduce evidence that the victim was raving like a rabid dog and trying to bite your client when your client shot him.

Reporting witness testimony. Lawyers often write their Statement of Facts as if they were churning through the transcript and summarizing the testimony, witness by witness, as it shows up in the transcript. Here's an example:

> First, Akron Police Detective Lance Shootem testified that he reviewed the videotape from the Stop-N-Rob Convenience Store, and the videotape showed Irving Nogood pointing a handgun at the cashier, who raised his own pistol and fired at Nogood. Then, Patrol Officer Patience Sojourner testified she interviewed Nogood at Akron City Hospital. She did not read him his *Miranda* rights because she did not believe he was in custody. Nogood averred that he did not rob the convenience store, and said he was struck by a stray bullet fired elsewhere in the Main Street neighborhood. Stop-N-Rob clerk Amal Newcitizen testified he'd

never seen the robber before he shot him, only remembered seeing the robber's gun, and did not recognize Nogood in court. Akron City Hospital Emergency Department doctor Marcus Welby, M.D., testified that he removed a 9 mm bullet from Nogood's thigh. Next, Akron Firefighter-Paramedic Sterling Hero testified that his EMT unit was dispatched to South Main Street, two blocks from the Stop-N-Rob, to treat a man with a gunshot wound. Hero testified that man was Nogood.

When we're litigating a case, we don't always have the luxury of scheduling our witnesses in the order where their testimony will fit a good narrative structure.

When we write an appellate brief, however, we need to tell the judges the story of our case. To do that, we have to synthesize the testimony into a logical narrative.

Do it out of compassion, if for no other reason. Imagine having to read dreck like this, hour after hour, day after day, in brief after brief, for at least six years of your life. Yecch.

Also, when you do not tell the judges your story of your client's case, they have to figure one out for themselves, based on their independent reading of the record. The story they write may not be the story you'd like them to hear, and it may not be the story that supports your argument.

1. Objective facts

Even though you will use concrete facts to tell your story of your client's case, your Statement of Facts should also be objective, in that it should not include any opinion or argument.

Top tips

- Get organized. Make an outline!
- Be succinct.
- Understand what's relevant.
- Don't make stuff up.
- Don't exaggerate, use hyperbole, or insult your opponent.
- Don't inject arguments or opinions into your Statement of Facts.

In order to be *objective,* you have to report not only the relevant facts that make it more likely that your appeal will succeed, but *also those relevant facts that make it less likely that your appeal will succeed.* In other words, you have to report <u>all</u> of the facts that have any bearing on the arguments you raise in the appeal, even if they aren't favorable. It's intellectually honest, and the judges respect that.

For example, in the murder case above, the fact that your client shot the unarmed guy *three times* won't favor your argument that the trial court should have given a self-defense jury instruction. You can't run away from this fact. You have to deal with it in the brief. And if you try to hide this fact from the appellate judges, you lose credibility in their eyes—and so does your argument. Instead, you need to make sure you include all of the facts that are relevant to your argument.

Tips:

- Be accurate in your word choice
- Use strong but neutral verbs
- Avoid adjectives and adverbs as much as possible
- Avoid cliches and slang
- Avoid profanity unless it's absolutely necessary
- Avoid unnecessary euphemisms
- Avoid unnecessary repetition
- Use the past tense, consistently
- Stress witnesses' answers to questions, not the questions themselves
- Paraphrase witnesses' weak, obvious, routine, or boring testimony
- Paraphrase witnesses' confusing testimony, unless the fact that they're incoherent is part of your argument
- Avoid explaining a quotation after the quotation. Ex: "It's such a rush," Greg said, after riding the roller coaster.
- Attribute direct quotations at a natural break in the quotation. Ex: "If Nogood didn't do it," Shootem said, "nobody did."
- When multiple witnesses or sources provide the same information, cite to the multiple points in the record where the information appears, without mentioning each witness or source who provided it—unless that's part of your argument. Ex: Fr. McDougall, Sr. Sweeney, and Rabbi Meier testified they saw Nogood ladling soup to homeless people at the Akron Interfaith Soup Kitchen at the time the robbery occurred.

Aspirations

Good legal writing should be:

- Clear
- Breezily written, using simple sentences in active voice
- Accessible to readers
- Accurate

How much detail you give, and how you structure your sentences when you write the objective facts will highlight or tone down the importance of some of the facts, will help you make your argument.

Exercise: Using the Mary Brown facts, briefly recite the facts that would be important to:

1.) Making Waddles' case on appeal; and

2.) Making the People of New York's case on appeal.

2. How NOT to use facts

There's a big difference between making sure that you include objective facts that help your case, and blatantly inserting argument into your Statement of Facts. If you do

insert argument into your Statement of Facts, you'll run afoul of Ninth District Local Rule 7(B)(6) and Appendix B. You also lose credibility with the Court.

Exercise: The following is an excerpt from a real appellant's brief in a civil case, edited to strip out information that would tend to identify the parties and the writer. Identify the ways the writer injected argument into the statement of facts or used biased language.

Statement of Facts

A. The Doctrine of Laches barred the Appellee's claim.

For nearly three years, the Appellee sat willfully idle and did not prosecute his claim. For instance:

- August of 2009 - the Appellant contacted the Appellee and offered to settle the Appellant's claim prior to arbitration. That offer was rejected.
- September 3, 2010 - 29 months after Appellee's cause of action accrued, the Appellant received a written settlement demand.
- September 15, 2010 - the Appellant stated that it was prepared to proceed with arbitration and requested opposing counsel to, "agree to an arbitrator or seek potential arbitrators from the Federal Mediation and Conciliation Services."
- February 11, 2011 - 33 months after Appellee's cause of action accrued, his attorney finally requested a list of arbitrators from the Federal Mediation and Conciliation Services. The request was defective and had to be resubmitted.
- April 6, 2011 - the Appellee requested a proper list of Arbitrators.

B. The Arbitrator found the Appellee's evidence regarding damages to be speculative, devoid of certainty, and unsubstantiated.

At arbitration, the burden was on Appellee to present evidence and testimony as to the remedy he were seeking, including the amount of his damages. Appellee produced a single unsubstantiated unreliable document, Exhibit N, Appellee's medical bills and lost wages calculation. In response to request from the Appellee in discovery, the Appellant provided a document that outlined the maximum amount of medical bills and lost wages to which Appellant may be entitled. However, the Appellant never introduced that exhibit into the arbitration

proceedings and repeatedly stressed that any damages award should be reduced based upon Appellee's failure to mitigate. Alternatively, the Appellant requested that any damages award should be reduced by 33 months to reflect the Appellee's delay in processing the claim to arbitration. The Arbitrator agreed with the Appellant's arguments regarding the failure to mitigate damages and said he would incorporate a financial penalty into the damages award. However, no penalty was ever assessed. Just as important was the significant evidentiary issues the Arbitrator found regarding the Appellee's presentation and calculation of damages.

C. Making copy work for you

1. Parallel sentence structure.

When you establish a strong pattern of parallel sentence structure in a paragraph, it helps unify the paragraph, gives your writing a better flow, and enhances your copy's persuasive power. The following excerpt from Dr. Martin Luther King, Jr.'s "I Have A Dream" speech[3] is an illustration:

> But we refuse to believe that the bank of justice is bankrupt. We refuse to believe that there are insufficient funds in the great vaults of opportunity of this nation. So we've come to cash this check, a check that will give us upon demand the riches of freedom and the security of justice.
>
> We have also come to this hallowed spot to remind America of the fierce urgency of now. This is no time to engage in the luxury of cooling off or to take the tranquilizing drug of gradualism. Now is the time to make real the promises of democracy. Now is the time to rise from the dark and desolate valley of segregation to the sunlit path of racial justice. Now is the time to lift our nation from the quicksands of racial injustice to the solid rock of brotherhood.

[3] For the full text, see http://www.archives.gov/press/exhibits/dream-speech.pdf.

2. Keeping it simple!

Verbal clutter

Understand what's relevant and important to your argument, and omit words that aren't necessary to making your argument. For example, unless someone argues that a motion wasn't filed, you probably don't need to tell the court of appeals that "Soandso filed a motion for summary judgment, which was denied by the court." Instead, say, "Soandso unsuccessfully moved for summary judgment." Also try to avoid redundancies and words that lend your copy a pompous tone.

If you can cut a word and not alter the senence's meaning, then you've cut verbal clutter.

Common examples:

- Make the attempt = try
- Assisted in the effort = helped
- Make a decision = decide
- Effect a change = change
- Proceeded to (do whatever) = (did whatever)
  Ex: Using, "Shootem proceeded to fire at the suspect," when you can say, "Shootem fired at the suspect." If it's important to know *when* Shootem fired at the suspect in the sequence of events, you can say, "Shootem then fired at the suspect."

Pomposities you should avoid

- Assist = help
- Reside = live
- Apprehend = arrest, catch, nab, stop
- Pursuit = chase
- Stated = said

Redundancies

- Crowd of people
- Total loss
- Unpaid debt
- Future plans
- 2 a.m. in the morning

Readability

You can check your copy's "readability" or its "grade level" by using readability measurements in either your word processing software (such as Microsoft Word), or online. For instance, you could copy and paste a portion of your copy into the online readability tests at http://www.online-utility.org/english/readability_test_and_improve.jsp or at https://readability-score.com. For example, according to the Readability Score website, the text in the Exercise under "How NOT to use facts" was written at between a 12th-grade and college freshman level.

3. Short paragraphs

As a general rule, shorter paragraphs are less fatiguing for readers to consume, and provide a better flow for your copy. After all, one paragraph is supposed to contain one idea—just *one*.

Try to avoid writing enormous grey blocks of copy that are not broken up by a paragraph indentation. Having just that small "Em" space of white at the beginning of a paragraph helps move the reader's eye along, and makes the example on the right less intimidating to read than the example on the left:

Ex1: Crystal Jordan, along with two of her sisters, a teenage niece, and a teenage friend of the niece, walked into the Target store in Green in December 2012. With them was Jordan's baby, carried in a car seat. Jordan had borrowed another sister's car, and had driven the group to the store because her niece's mother had asked Jordan to take her niece shopping. After looking at clothing and trying to select outfits for her niece, Jordan picked up her baby and walked to another section of the store with one of her sisters, leaving the baby's diaper bag, blanket, and car seat in the shopping cart with the niece and her friend.

The group caught the attention of Andrew Phillips, Target's loss prevention officer, because they constituted a large group, they carried no purses, they removed clothing from hangers, and they put a lot of items into a cart, without any regard that he could perceive as to price or size. Still, he testified Jordan's conduct was consistent with shopping. After Jordan and one sister walked away with the baby, Phillips continued to watch the teenagers with the cart on the store security cameras. At various times during the 40-45 minutes the women were in the store, Phillips either watched them on the cameras, or in person.

While Jordan was absent, the teenagers concealed merchandise in the car seat, underneath the baby blanket. Phillips later testified he saw the niece remove diapers and a container of baby formula from beneath her coat and stuff them into the diaper bag. When the niece and her friend concealed items, Jordan was either not looking, or was not present. Jordan also did not lift the car seat containing merchandise; her niece did. Phillips did not see Jordan try to take anything. Eventually, the niece pushed the cart with the car seat, the diaper bag, and merchandise toward Target's front door. Phillips confronted her, and took her into the loss prevention office with a female Target employee.

Ex2: Crystal Jordan, along with two of her sisters, a teenage niece, and a teenage friend of the niece, walked into the Target store in Green in December 2012. With them was Jordan's baby, carried in a car seat.

Jordan had borrowed another sister's car, and had driven the group to the store because her niece's mother had asked Jordan to take her niece shopping.

After looking at clothing and trying to select outfits for her niece, Jordan picked up her baby and walked to another section of the store with one of her sisters, leaving the baby's diaper bag, blanket, and car seat in the shopping cart with the niece and her friend.

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At various times during the 40-45 minutes the women were in the store, Phillips either watched them on the cameras, or in person.

While Jordan was absent, the teenagers concealed merchandise in the car seat, underneath the baby blanket.

Phillips later testified he saw the niece remove diapers and a container of baby formula from beneath her coat and stuff them into the diaper bag.

When the niece and her friend concealed items, Jordan was either not looking, or was not present. Jordan also did not lift the car seat containing merchandise; her niece did. Phillips did not see Jordan try to take anything.

Eventually, the niece pushed the cart with the car seat, the diaper bag, and merchandise toward Target's front door.

Still, don't overdo it. You don't have to write one-sentence paragraphs like journalists do, nor should you; sometimes, a sequence of one- or two-sentence paragraphs can appear choppy and jarring for the reader.

4. Bulleted lists

Judges like reading bulleted lists for the same reasons journalists like writing them: They present information in a succinct, punchy way; they can add impact to the argument; and they add visual interest to what would otherwise be a dull, grey wall of words—even if the non-bulleted version is shorter.

Exercise: Compare the following, where Mr. Worker wanted to show the Court of Appeals that his employer never addressed the five reasons that Ohio's statutes allows a court to vacate or modify an arbitration award, in either the trial court or in the employer's appellate brief:

Example 1

> In this case, the Employer did not argue here or at the trial court any of the following:
>
> - The Employer did not argue that arbitration was not binding pursuant to the CBA;
> - The Employer did not argue that the arbitrator lacked jurisdiction under the CBA to consider Worker's case;
> - The Employer did not argue that either reinstatement or back pay may be awarded under the CBA;
> - The Employer did not argue that there is any cap in the CBA that would limit the amount of back pay that an arbitrator may award; and
> - The Employer did not argue that the CBA contains any provisions that would mandate the denial or reduction of back pay under circumstances similar to those in Worker's case.
>
> Therefore, the Employer has not met its burden on appeal to affirmatively demonstrate that, on these grounds, the trial court erred as a matter of law when it declined to vacate or modify the arbitrator's award.

Example 2

> In this case, the Employer did not argue here or at the trial court that arbitration was not binding pursuant to the CBA; that the arbitrator lacked jurisdiction under the CBA to consider Worker's case; that either reinstatement or back pay may be awarded under the CBA; that there is any cap in the CBA that would limit the amount of back pay that an arbitrator may award; and that the CBA contains any provisions that would mandate the denial or reduction of back pay under circumstances similar to those in Worker's case.
>
> Therefore, the Employer has not met its burden on appeal to affirmatively demonstrate that, on these grounds, the trial court erred as a matter of law when it declined to vacate or modify the arbitrator's award.

When you use a bulleted list, make sure you do the following:

- Make sure that the list items all follow a sound parallel structure;
- Each list item can contain more than one sentence, but they should not go on forever; and
- Use numbers, letters, or some other neutral and dignified symbol at the beginning of each item, such as a dash or a dot "bullet."

5. Signposts: Headings, summaries, and transitions

Headings are like the road signs in your brief. They tell the judges where you're going.

You can use sans-serif typefaces in headings, and different fonts such as bold, italic, or underlined fonts. Whatever you do, be consistent.

One constructive way to use headings is to use them like the entries in an outline, complete with sequential Roman numerals, letters, and numbers. Just make sure to follow the usual rules for outlines, and again, be consistent in how you format your headings.

D. Professionalism tips

Be professional. Don't insinuate that your opponent is an idiot or anything of the sort. Your opponent may drive you stark, raving crazy, but you should not show that to the court of appeals. It's better for your case if the judges come to view your opponent–not you–as the shrieking lunatic WHO WRITES IN ALL CAPS!

Even in your argument, you should still avoid loaded words, such as "obviously," "clearly," and "interestingly." If it was that obvious or clear, your case wouldn't be in the court of appeals. "Interestingly" is just snarky.

E. Editing

Again, your word processing software's spell-check and grammar-check systems are great. They are, however, no substitute for a good once-over.

If you have time, put your brief away for several hours, or even overnight. Return to it and read it with fresh eyes. You'll have a new perspective on it, and you will be a much more effective editor.

Reading a brief aloud can help you identify awkward sentence structure, bad grammar, and goofed-up spellings. If you have dire problems with typos, read the brief backwards (from the bottom up); your brain will be more likely to catch misspellings that way. Also, try to read and edit a hardcopy of the brief.

If you can get someone else to proofread your brief, do it, but don't allow them to edit for content. You understand the facts and law in your case better than anyone, and allowing someone less familiar with your case than you to edit for content just invites that person to inject errors into your brief.

Finally, always take a look at your final copy before you file your brief, to make sure your printer hasn't garbled something, and that all of the pages are in all of the copies of your brief. It's very embarrassing to realize after you've filed the brief that your printer had a nervous breakdown (*aka* a "post script error") and garbled your Table of Authorities.

F. Typography tips

General tips about using type:

- Follow the court's rules about typefaces, and the guidelines in the Supreme Court's *Writing Manual.* Even if a court doesn't include its preference for typefaces in its local rules, do use a typeface that's readable.

  For the body of your brief, that means a serif typeface. For headings, you can use a sans-serif typeface. Just don't use something weird, **Like This.** *Or worse, this!*

- Understand the subliminal message that your typography sends to the judges. Underlining a passage in your copy gives it a lot of emphasis, and the courts

generally don't appreciate it. When you write with ALL CAPITAL LETTERS and/or write in boldface, IT'S LIKE SHOUTING AT THE COURT.

- Headings need to be visually different than the rest of your copy. Using a boldface or underlined font, even in a larger type size, is perfectly acceptable in headings.

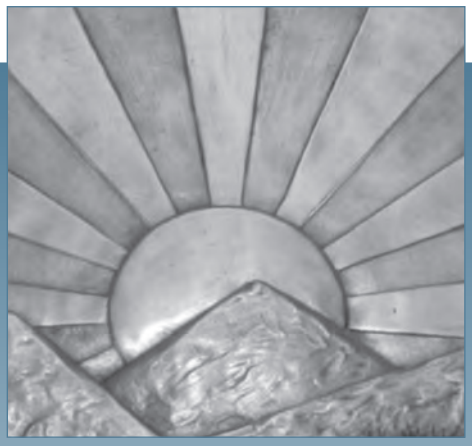
-###-

THE SUPREME COURT *of* OHIO

WRITING MANUAL

A Guide to Citations, Style, and Judicial Opinion Writing

EFFECTIVE JULY 1, 2013
SECOND EDITION



PUBLISHED *for*
THE SUPREME COURT *of* OHIO

The Supreme Court *of* Ohio

WRITING MANUAL

A Guide to Citations, Style, and Judicial Opinion Writing

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The committee wishes to gratefully acknowledge the invaluable contributions of editor Pam Wynsen of the Reporter's Office, as well as the excellent formatting assistance of John VanNorman, Policy and Research Counsel to the Administrative Director.

TABLE OF CONTENTS

PART II. STYLE GUIDE

PREFACE

Composed under the direction of the Supreme Court of Ohio Style Manual Committee at the request of the late Chief Justice Thomas J. Moyer, the Supreme Court of Ohio Writing Manual is the first comprehensive guide to judicial opinion writing published by the court for its use. The Supreme Court will follow this manual in its opinions.

Consisting of three parts, the Writing Manual addresses broad areas of interest to judges and lawyers.

Part I, the Manual of Citations, governs the citation format used in Supreme Court opinions and other opinions. It sets forth rules for the forms of citation for cases, statutes, and other sources, provides examples for each category, and explains the use of WebCites.

Part II, the Style Guide, provides direction on certain aspects of style used in Supreme Court opinions. Subjects covered include capitalization, punctuation, use of footnotes and headings, captions, and commonly misused words.

Part III, the Structure of a Judicial Opinion, is a guide intended to assist writers of judicial opinions. It offers an outline setting forth the basic components of an opinion in the traditional sequence, followed by several examples written in the Supreme Court style.

Although Ohio judges and lawyers are not required to follow this manual, the committee hopes that it will be useful in writing opinions and drafting briefs and pleadings.

PART I. MANUAL OF CITATIONS

INTRODUCTION TO THE MANUAL OF CITATIONS

The Manual of the Forms of Citation Used in the Ohio Official Reports, a forerunner of the Writing Manual, first appeared in January 1985. Its purpose was to make uniform the forms of citation used in opinions published in the Ohio Official Reports. In July 1992, an interim edition was released, followed in July 2002 by the Revisions to the Manual of Citations. The 2002 version brought the manual into compliance with the revised Rules for Reporting Opinions adopted by the Supreme Court effective May 1, 2002.

The 2012 Supreme Court of Ohio Writing Manual, updated in 2013 with this second edition, supersedes the 1985 manual, the interim edition, and the 2002 revisions. Unlike previous versions, the Writing Manual states its directives in rule format. Part I, the Manual of Citations, is divided into six sections ("Cases," "Constitutions," "Statutes and Ordinances," "Rules and Regulations," "Secondary Sources," and "Miscellaneous Citation Rules"), and each section contains divisions. Part II of the manual, the Style Guide, provides guidance in matters of style. Part III, Structure of a Judicial Opinion, is offered as an aid to drafters of opinions.

The Manual of Citations contains several changes to citation style. The most notable are:

- The date of a judicial opinion now appears at the end of the citation;
- Citations of print published appellate cases now identify the district of decision;
- Citations of non-print published appellate cases now identify both the district and county of decision;
- The federal circuits are now identified using "Cir.," e.g., 6th Cir. instead of C.A.6;
- Federal statutes are now cited using "U.S.C.," e.g., 42 U.S.C. 1982 instead of Section 1982, Title 42, U.S.Code;
- Ohio case citations no longer include Ohio Bar Reports (OBR) or Ohio Opinions (O.O., O.O.2d, O.O.3d);
- Signals are now italicized.

S.Ct.Prac.R. 3.01 states, "Parties may refer to the Supreme Court's Writing Manual: A Guide to Citations, Style, and Judicial Opinion Writing for guidance on the style of documents filed with the Supreme Court."

If you have any comments on the Writing Manual, please contact the Reporter's Office at the Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215-3431. Telephone: 614.387.9580, toll-free at 1.800.826.9010. E-mail: REP@sc.ohio.gov.

SECTION ONE: CASES

(For "**OHIO CITATIONS AT A GLANCE,**" see page 21.)

1.1. Ohio Court Cases.

A. Importance of May 1, 2002

Beginning on May 1, 2002, the Supreme Court's website became the repository of all opinions of the Supreme Court, the courts of appeals, and the Court of Claims, as well as selected opinions of the state's other trial courts. Since that time, each opinion posted to the Supreme Court's website has been assigned its own unique number or "WebCite." The WebCite is composed of three elements: the year of decision, the word "Ohio," and a number unique to that opinion, e.g., 2003-Ohio-1234. The search index can be accessed at http://www.sc.ohio.gov/ROD/docs/.

B. Ohio cases decided before May 1, 2002

1. Supreme Court of Ohio cases

In citations of Supreme Court of Ohio cases decided before May 1, 2002, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The full parallel citation, i.e., the official citation followed by the North Eastern Reporter, separated by a comma;
- The year of decision, within parentheses.

NOTE: A number of Supreme Court of Ohio cases decided before May 1, 2002, have been assigned WebCites but have not been assigned paragraph numbers. E.g., Davis v. Immediate Med. Servs., Inc., *80 Ohio St.3d 10, 684 N.E.2d 292 (1997). Do not use the WebCite in citing these cases.*

NOTE: Ohio Bar Reports (OBR) and Ohio Opinions (O.O., O.O.2d, and O.O.3d) are no longer included in the citation. Those sources are cited only when they are the only available source for a case.

NOTE: When the writer wishes to pinpoint a particular page of a case, only the page of the official reporter is provided. In Ohio, the official reporters are Ohio St., Ohio App., and Ohio Misc., while N.E. is the unofficial reporter.

HOW TO CITE SUPREME COURT OF OHIO CASES DECIDED BEFORE MAY 1, 2002

Lorain Cty. Bar Assn. v. Kennedy, 95 Ohio St.3d 116, 766 N.E.2d 151 (2002).

NOTE: The case was decided on April 24, 2002, so use this citation form.

Greene Cty. Agricultural Soc. v. Liming, 89 Ohio St.3d 551, 554, 733 N.E.2d 1141 (2000), fn. 3.

NOTE: The reference to the footnote ("fn.") follows the year.

O'Brien v. Egelhoff, 9 Ohio St.3d 309, 459 N.E.2d 886 (1984).

Marrek v. Cleveland Metroparks Bd. of Commrs., 9 Ohio St.3d 194, 459 N.E.2d 873 (1984), syllabus.

NOTE: Use this example when citing a syllabus composed of one paragraph.

Scioto Valley Ry. & Power Co. v. Pub. Util. Comm., 115 Ohio St. 358, 154 N.E. 320 (1926), paragraph two of the syllabus.

NOTE: Use this example when specifically citing one paragraph of a multiparagraph syllabus.

Burger Brewing Co. v. Thomas, 42 Ohio St.2d 377, 378-379, 329 N.E.2d 693 (1975).

NOTE: Use this example when referring to a specific page. Note that the pinpoint page is provided only for the official reporter. Note also that when citing a range of pages, the full number is provided for the ending page of the range. That is, use 378-379, not 378-79.

Walters v. Knox Cty. Bd. of Revision, 47 Ohio St.3d 23, 26, 546 N.E.2d 932 (1989) (Douglas, J., concurring in judgment only).

NOTE: Use the above example when referring to a minority opinion.

Somerby v. Tappan, Wright 230 (1833).

Bebout v. Simmonds, Tappan 227 (1818).

2. Ohio courts of appeals cases

a. Print published cases[1]

In citations of Ohio courts of appeals opinions that were decided[2] before May 1, 2002, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The full parallel citation, i.e., the official citation when available, followed by the North Eastern Reporter, separated by a comma;
- The appellate district and year of decision, within parentheses.

NOTE: Ohio Bar Reports (OBR) and Ohio Opinions (O.O., O.O.2d, and O.O.3d) are no longer included in the citation. Those sources are cited only when they are the only available source for a case.

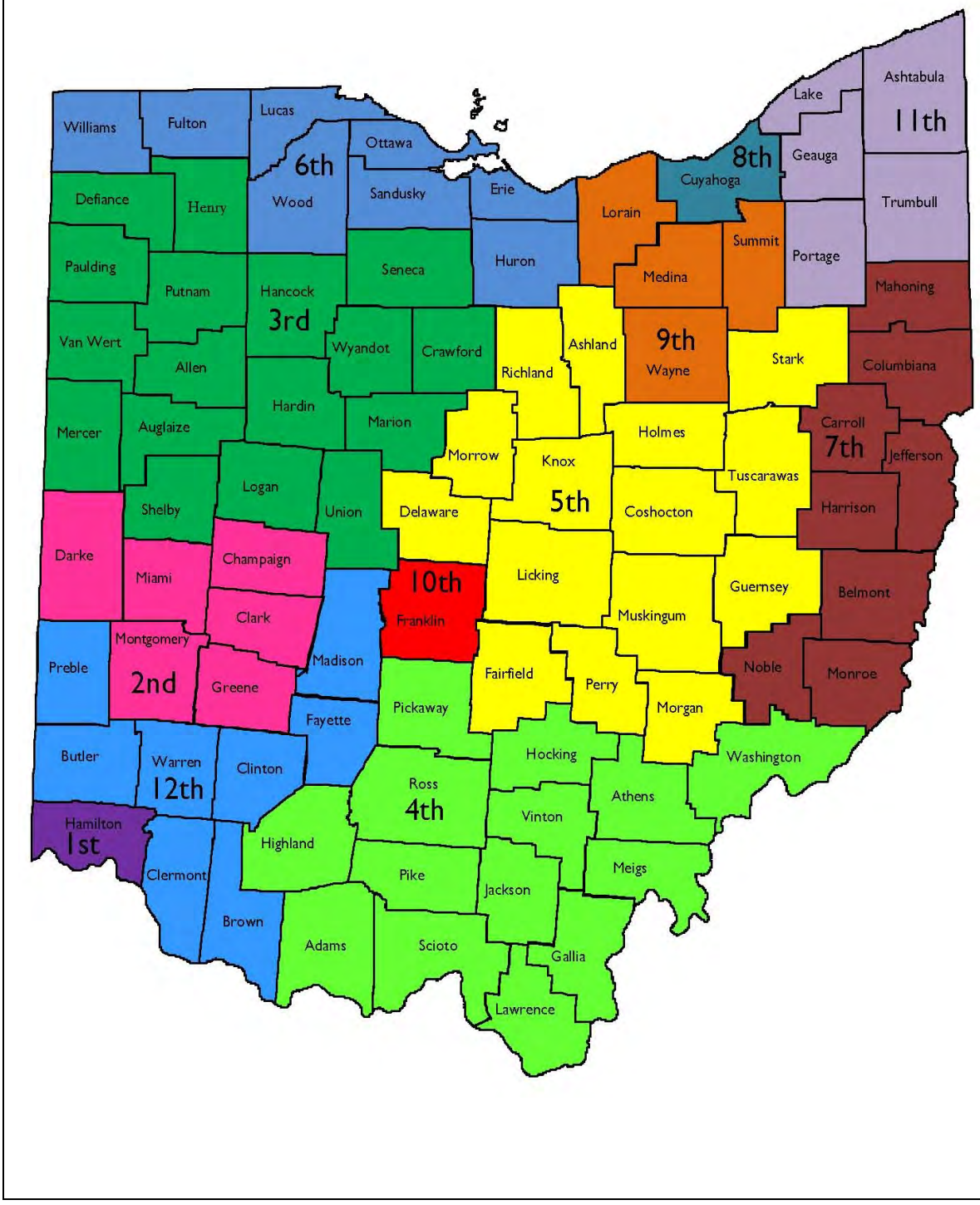
NOTE: The district of decision is now required in all citations of courts of appeals cases, and both the district and county of decision are now required in all citations of non-print published courts of appeals cases. For print published cases, the district appears in parentheses at the end, as shown in the examples below. In non-print published cases, the case number is preceded by both the district number and the name of the county, e.g., 5th Dist. Fairfield No. ___. See Section 1.1(B)(2)(b), below.

The following map and list show all 12 Ohio appellate districts and their constituent counties.

[1] The term "print published cases" refers to cases that have been published in one of the official state reporters or the North Eastern Reporter.

[2] A few print published appellate cases decided before May 1, 2002, have been assigned WebCites and paragraph numbers and should be treated as if they were decided after that date. E.g., *Dunkel v. Hilyard*, 146 Ohio App.3d 414, 2001-Ohio-2597, 766 N.E.2d 603 (4th Dist.).

OHIO APPELLATE DISTRICTS MAP



OHIO APPELLATE DISTRICTS LIST	
First	Hamilton
Second	Champaign, Clark, Darke, Greene, Miami, and Montgomery
Third	Allen, Auglaize, Crawford, Defiance, Hancock, Hardin, Henry, Logan, Marion, Mercer, Paulding, Putnam, Seneca, Shelby, Union, Van Wert, and Wyandot
Fourth	Adams, Athens, Gallia, Highland, Hocking, Jackson, Lawrence, Meigs, Pickaway, Pike, Ross, Scioto, Vinton, and Washington
Fifth	Ashland, Coshocton, Delaware, Fairfield, Guernsey, Holmes, Knox, Licking, Morgan, Morrow, Muskingum, Perry, Richland, Stark, and Tuscarawas
Sixth	Erie, Fulton, Huron, Lucas, Ottawa, Sandusky, Williams, and Wood
Seventh	Belmont, Carroll, Columbiana, Harrison, Jefferson, Mahoning, Monroe, and Noble
Eighth	Cuyahoga
Ninth	Lorain, Medina, Summit, and Wayne
Tenth	Franklin
Eleventh	Ashtabula, Geauga, Lake, Portage, and Trumbull
Twelfth	Brown, Butler, Clermont, Clinton, Fayette, Madison, Preble, and Warren

HOW TO CITE OHIO COURTS OF APPEALS CASES DECIDED BEFORE MAY 1, 2002 / PRINT PUBLISHED

State v. Crandall, 9 Ohio App.3d 291, 292, 460 N.E.2d 296 (1st Dist.1983).

NOTE: The pinpoint is provided only for the official reporter.

Cincinnati Traction Co. v. Cahill, 16 Ohio App. 496, 501 (1st Dist.1922).

Kessler v. Brown, 30 Ohio Law Abs. 321, 32 N.E.2d 68 (5th Dist.1939).

Gray v. Allison Div., Gen. Motors Corp., 52 Ohio App.2d 348, 351, 370 N.E.2d 747 (8th Dist.1977).

Cincinnati v. St. Paul Mercury Indemn. Co., 165 N.E.2d 798 (1st Dist.1959).

Hepner v. Hamilton Cty. Bd. of Rev., 11 O.O.3d 144 (1st Dist.1978).

b. Non-print published cases

For non-print published Ohio courts of appeals cases decided before May 1, 2002, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The number of the district in which the case was decided;
- The name of the county in which the case was decided;
- The case number, written as No. ___;
- An electronic-database citation, if available, preceded by a comma;
- The date of decision (month, day, and year).

NOTE: Ohio Bar Reports (OBR) and Ohio Opinions (O.O., O.O.2d, and O.O.3d) are no longer included in the citation. Those sources are cited only when they are the only available source for a case.

HOW TO CITE OHIO COURTS OF APPEALS CASES DECIDED BEFORE MAY 1, 2002 / NON-PRINT PUBLISHED

State v. Croston, 4th Dist. Athens No. 01CA22, 2001 WL 1346130 (Oct. 30, 2001).
or
State v. Croston, 4th Dist. Athens No. 01CA22, 2001 Ohio App. LEXIS 4870 (Oct. 30, 2001).

Std. Oil Co. v. Fairview Park, 8th Dist. Cuyahoga No. 39908, 1979 WL 210632, *4 (Dec. 20, 1979).
or
Std. Oil Co. v. Fairview Park, 8th Dist. Cuyahoga No. 39908, 1979 Ohio App. LEXIS 11428, 4 (Dec. 20, 1979).

NOTE: Both the appellate district and the county must be identified.

NOTE: When a Westlaw or Lexis cite is available, use the West star page or the Lexis page as a pinpoint.

NOTE: Any electronic-database citation is acceptable.

3. Ohio trial court cases

a. Print published cases

In citations of Ohio trial court opinions that were decided[3] before May 1, 2002, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The full parallel citation, beginning with the official citation when available, followed by the North Eastern Reporter, separated by a comma;
- If no official or North Eastern Reporter citation exists, an electronic-database citation, when available, preceded by a comma;
- The court and the year of decision, within parentheses.

[3] A few print published trial court cases decided before May 1, 2002, have been assigned WebCites and paragraph numbers and should be treated as if they were decided after that date. E.g., *Siebe v. Univ. of Cincinnati*, 117 Ohio Misc.2d 46, 2001-Ohio-4109, 766 N.E.2d 1070 (Ct. of Cl.).

In citations of trial court opinions, an abbreviation for the court of decision must precede the year of decision within the parentheses, unless the reporter itself identifies the court, such as Ohio Nisi Prius Reports. Courts of decision are abbreviated as follows: C.P. = court of common pleas; P.C. = probate court; J.C. = juvenile court; M.C. = municipal court; Ct. of Cl. = Court of Claims of Ohio.

NOTE: Ohio Bar Reports (OBR) and Ohio Opinions (O.O., O.O.2d, and O.O.3d) are no longer included in the citation. Those sources are cited only when they are the only available source for a case.

HOW TO CITE OHIO TRIAL COURT CASES DECIDED BEFORE MAY 1, 2002 / PRINT PUBLISHED

State v. Bauer, 1 Ohio N.P. 103, 105, 1 Ohio Dec. 199, 1894 WL 637 (1894).
or
State v. Bauer, 1 Ohio N.P. 103, 105, 1 Ohio Dec. 199, 1894 Ohio Misc. LEXIS 44 (1894).

State v. Saam, 50 Ohio Law Abs. 5, 75 N.E.2d 824 (C.P.1947).
NOTE: C.P. = court of common pleas.

Welter v. Welter, 27 Ohio Misc. 44, 46, 267 N.E.2d 442 (C.P.1971).
NOTE: The pinpoint is provided only for the official reporter.

b. Non-print published cases

For Ohio trial court cases decided before May 1, 2002, that are not print published, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The court of decision;
- The case number, written as No. ___;
- An electronic-database citation, when available, preceded by a comma;
- The date of decision, within parentheses (month, day, and year).

HOW TO CITE OHIO TRIAL COURT CASES DECIDED BEFORE MAY 1, 2002 / NON-PRINT PUBLISHED

Fairfield Cty. v. Allstate Ins. Co., Franklin C.P. No. 91CVH02-1112 (July 24, 1992).

NOTE: No Westlaw or Lexis citation is available for this case.

Porter v. Cent. Auto Elec. & Radiator Shop, Inc., New Philadelphia M.C. No. 70890CVF-124, 1990 WL 693198 (Nov. 26, 1990).

NOTE: No Lexis citation is available for this case.

C. Ohio cases decided on or after May 1, 2002

1. Supreme Court of Ohio cases

In citations of Supreme Court of Ohio cases decided on or after May 1, 2002, i.e., 95 Ohio St.3d 121 and after, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The full parallel citation, beginning with the official citation, followed by the opinion's Supreme Court WebCite, followed by the North Eastern Reporter, all separated by commas.

Paragraph numbers, not page numbers, are used to pinpoint text. The year of decision appears in the WebCite, not in parentheses.

HOW TO CITE SUPREME COURT OF OHIO CASES DECIDED ON OR AFTER MAY 1, 2002

Bonacorsi v. Wheeling & Lake Erie Ry. Co., 95 Ohio St.3d 314, 2002-Ohio-2220, 767 N.E.2d 707, ¶ 15.

NOTE: Use this form when citing one paragraph of an opinion.

Bowling Green v. Godwin, 110 Ohio St.3d 58, 2006-Ohio-3563, 850 N.E.2d 698, ¶ 13, fn. 1.

NOTE: When citing a footnote, include the paragraph number in which the footnote appears.

Mid-America Tire, Inc. v. PTZ Trading Ltd., 95 Ohio St.3d 367, 2002-Ohio-2427, 768 N.E.2d 619, paragraph two of the syllabus.

NOTE: Use this form when citing one paragraph of a multiparagraph syllabus.

Ellwood Engineered Castings Co. v. Zaino, 98 Ohio St.3d 424, 2003-Ohio-1812, 786 N.E.2d 458, ¶ 72 (Cook, J., dissenting).

2. Ohio courts of appeals cases

a. Print published cases with WebCite available

In citations of Ohio appellate cases decided on or after May 1, 2002, that are print published in both the Ohio Official Reports and the North Eastern Reporter and have a WebCite, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The full parallel citation, beginning with the official citation when available, followed by the opinion's WebCite, followed by the North Eastern Reporter, all separated by commas;
- The appellate district, within parentheses.

As of July 1, 2012, Ohio appellate opinions are no longer print published in the official reporter. However, some of the opinions may appear in the North Eastern Reporter. In citations of these cases, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The opinion's WebCite;
- The North Eastern Reporter citation;
- The appellate district, within parentheses.

HOW TO CITE OHIO COURTS OF APPEALS CASES DECIDED ON OR AFTER MAY 1, 2002 / PRINT PUBLISHED AND WEBCITE AVAILABLE

Byer v. Wright, 160 Ohio App.3d 472, 2005-Ohio-1797, 827 N.E.2d 835 (11th Dist.).

State v. Jones, 154 Ohio App.3d 231, 2003-Ohio-4669, 796 N.E.2d 989, ¶ 40 (8th Dist.).

Guenther v. Springfield Twp. Trustees, 2012-Ohio-203, 970 N.E.2d 1058, ¶ 18 (2d Dist.).

NOTE: This case was print published only in the North Eastern Reporter.

b. Non-print published cases with WebCite available

In citations of Ohio appellate cases decided on or after May 1, 2002, that are non-print published and have a WebCite, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The number of the appellate district in which the case was decided;
- The name of the county in which the case was decided;
- The case number, written as No. _____ and followed by a comma;
- The opinion's WebCite.

HOW TO CITE OHIO COURTS OF APPEALS CASES DECIDED ON OR AFTER MAY 1, 2002 / NON-PRINT PUBLISHED AND WEBCITE AVAILABLE

State v. Jones, 10th Dist. Franklin No. 02AP-1390, 2003-Ohio-5994.

NOTE: Both the appellate district and the county must be identified.

c. Non-print published cases with no WebCite available

When citing appellate cases decided on or after May 1, 2002, that are not print published and for which a WebCite is not available, use the same citation form used for cases decided before May 1, 2002, that are not print published (see "**b. Non-print published cases**" under "**2. Ohio courts of appeals cases**" of "**B. Ohio Cases Decided Before May 1, 2002,**" above).

HOW TO CITE OHIO COURTS OF APPEALS CASES DECIDED ON OR AFTER MAY 1, 2002 / NON-PRINT PUBLISHED AND WEBCITE NOT AVAILABLE
State v. Sampson, 1st Dist. Hamilton No. C-10547, 2002 WL 988560 (May 1, 2002). *or* *State v. Sampson*, 1st Dist. Hamilton No. C-10547, 2002 Ohio App. LEXIS 2020 (May 1, 2002). *NOTE: Both the appellate district and the county must be identified.*

3. Ohio trial court cases

a. Print published cases

In citations of Ohio trial court cases print published on or after May 1, 2002 (i.e., 117 Ohio Misc.2d 8 and after), place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The full parallel citation, beginning with the official citation, followed by the opinion's WebCite, followed by the North Eastern Reporter, all separated by commas;
- The court of decision (C.P., M.C., P.C.) in parentheses.

Paragraph numbers, not page numbers, are used to pinpoint text.

The year of decision appears in the WebCite, not in parentheses.

HOW TO CITE OHIO TRIAL COURT CASES DECIDED ON OR AFTER MAY 1, 2002 / PRINT PUBLISHED

Cuyahoga Metro. Hous. Auth. v. Harris, 139 Ohio Misc.2d 96, 2006-Ohio-6918, 861 N.E.2d 179 (M.C.).

Intercargo Ins. Co. v. Mun. Pipe Contrs., Inc., 127 Ohio Misc.2d 48, 2003-Ohio-7363, 805 N.E.2d 606 (C.P.).

In re Wurgler, 136 Ohio Misc.2d 1, 2005-Ohio-7139, 844 N.E.2d 919 (P.C.).

NOTE: As of July 1, 2012, trial court cases will not be print published.

b. Non-print published cases with WebCite available

In citations of Ohio trial court cases decided on or after May 1, 2002, that are not print published and that have a WebCite (a category limited to Court of Claims cases), place the elements of the citation in the following order, separated by commas:

- The name of the case, in italics, followed by a comma;
- Ct. of Cl. No. ___;
- The opinion's WebCite.

HOW TO CITE OHIO TRIAL COURT CASES DECIDED ON OR AFTER MAY 1, 2002 / NON-PRINT PUBLISHED AND WEBCITE AVAILABLE

Atkinson v. Dept. of Rehab. & Corr., Ct. of Cl. No. 2008-10315-AD, 2009-Ohio-4271.

O'Brien v. Ohio State Univ., Ct. of Cl. No. 2004-10230, 2006-Ohio-1104.

c. Non-print published cases with no WebCite available

In citations of Ohio trial court cases decided on or after May 1, 2002, that are not print published and for which a WebCite is not available, use the same citation form used for cases decided before May 1, 2002, that are not print published (see "**b. Non-print published cases**" under "**3. Ohio trial court cases**" of "**B. Ohio Cases Decided Before May 1, 2002,**" above).

HOW TO CITE OHIO TRIAL COURT CASES DECIDED ON OR AFTER MAY 1, 2002 / NON-PRINT PUBLISHED AND WEBCITE NOT AVAILABLE
Kimmel v. Ulrey Foods, Inc., Franklin M.C. No. 2005-CVH-006795 (Apr. 27, 2005). *Sigler v. State*, Richland C.P. No. 07 CV 1863 (Aug. 11, 2008). *NOTE: No Westlaw or Lexis citation is available for either case.*

1.2. Ohio Administrative Decisions.

In citations of Ohio administrative decisions, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The agency of decision;
- The case number, written as No. ___;
- An electronic-database citation, if available, preceded by a comma;
- The date of decision (month, day, year).

HOW TO CITE OHIO ADMINISTRATIVE DECISIONS

Board of Tax Appeals:

Rich's Dept. Stores, Inc. v. Wilkins, BTA No. 2005-T-1609, 2009 WL 294413 (Feb. 3, 2009).

or

Rich's Dept. Stores, Inc. v. Wilkins, BTA No. 2005-T-1609, 2009 Ohio Tax LEXIS 2046 (Feb. 3, 2009).

Public Utilities Commission of Ohio:

In re Columbus S. Power Co., Pub. Util. Comm. No. 05-376-EL-UNC, 2006 WL 1763724, at *5 (June 28, 2006).

or

In re Columbus S. Power Co., Pub. Util. Comm. No. 05-376-EL-UNC, 2006 Ohio PUC LEXIS 356, at 2 (June 28, 2006).

State Employment Relations Board:

In re Norwood, SERB No. 99-025, at 3-168 (Oct. 7, 1999).

NOTE: No Westlaw or Lexis citation is available for this case.

1.3. Abbreviations for Reporters of Ohio Cases.

Use the following standard abbreviations when citing various reporters of Ohio cases:

ABBREVIATIONS FOR REPORTERS OF OHIO CASES

Ohio Reports (1821–1851)	Ohio
Ohio State Reports (1852–1964)	Ohio St.
Ohio State Reports, Second Series (1964–1982)	Ohio St.2d
Ohio State Reports, Third Series (1982–date)	Ohio St.3d
Ohio Appellate Reports (1913–1964)	Ohio App.
Ohio Appellate Reports, Second Series (1963–1982)	Ohio App.2d

ABBREVIATIONS FOR REPORTERS OF OHIO CASES (CONT.)

Ohio Appellate Reports, Third Series (1982–2012)	Ohio App.3d
Ohio Miscellaneous Reports (1963–1982)	Ohio Misc.
Ohio Miscellaneous Reports, Second Series (1982–2012)	Ohio Misc.2d
Ohio Circuit Court Reports (1885–1901)	Ohio C.C.
Ohio Circuit Court Reports, New Series (1903–1917)	Ohio C.C.(N.S.)
Ohio Circuit Decisions (1885–1901)	Ohio C.D.
Ohio Nisi Prius Reports (1894–1901)	Ohio N.P.
Ohio Nisi Prius Reports, New Series (1903–1934)	Ohio N.P.(N.S.)
Ohio Decisions (1894–1920)	Ohio Dec.
Ohio Decisions Reprint (1840–1893)	Ohio Dec.Rep.
Ohio Law Abstracts (1923–1964)	Ohio Law Abs.
Ohio Courts of Appeals Reports (1917–1922)	Ohio C.A.
Ohio Opinions (1934–1956)	O.O.
Ohio Opinions, Second Series (1954–1973)	O.O.2d
Ohio Opinions, Third Series (1973–1982)	O.O.3d
Ohio Bar Reports (1982–1987)	OBR
Ohio Supplement (1937–1946)	Ohio Supp.
Tappan's Reports (1816–1819)	Tappan
Weekly Law Bulletin (1876–1921)	W.L.B.
Wright's Ohio Supreme Court Reports (1831–1834)	Wright

OHIO CITATIONS AT A GLANCE

Examples of the most commonly used case citation forms are provided for easy reference.

NOTE: For cases decided before May 1, 2002, place the date at the end of the citation.

HOW TO CITE CASES DECIDED BEFORE MAY 1, 2002

Supreme Court:

State v. Carter, 93 Ohio St.3d 581, 585, 757 N.E.2d 362 (2001).

State v. Parker, 44 Ohio St.2d 172, 339 N.E.2d 648 (1975), syllabus.
NOTE: When citing a syllabus, place it after the date.

Reformed Presbyterian Church v. Nelson, 35 Ohio St. 638, 644 (1880) (Johnson, J., dissenting).
NOTE: When citing a minority opinion, place the parenthetical identifying it as such after the date.

Courts of Appeals:

State v. Johnson, 134 Ohio App.3d 586, 591, 731 N.E.2d 1149 (1st Dist.1999).
NOTE: The appellate district is identified at the end, with the year.

Strauss Bros. Co. v. Long, 27 Ohio App. 17, 160 N.E. 635 (1st Dist.1927).

Hays v. Nemenz, 7th Dist. Columbiana No. 88-C-40, 1989 WL 53618 (May 22, 1989).
or
Hays v. Nemenz, 7th Dist. Columbiana No. 88-C-40, 1989 Ohio App. LEXIS 1853 (May 22, 1989).

Trial Courts:

Daniel v. Univ. of Cincinnati, 116 Ohio Misc.2d 1, 761 N.E.2d 1168 (Ct. of Cl.2001).

Moscow v. Moscow Village Council, 29 Ohio Misc.2d 15, 504 N.E.2d 1227 (C.P.1984).

NOTE: For cases decided on or after May 1, 2002, there is no need to add a date at the end of the citation unless there is no WebCite.

HOW TO CITE CASES DECIDED ON OR AFTER MAY 1, 2002

Supreme Court:

State v. Campbell, 100 Ohio St.3d 361, 2003-Ohio-6804, 800 N.E.2d 356, ¶ 14-15.

Robinson v. Bates, 112 Ohio St.3d 17, 2006-Ohio-6362, 857 N.E.2d 1195, paragraph two of the syllabus.

Cincinnati Bar Assn. v. Statzer, 101 Ohio St.3d 14, 2003-Ohio-6649, 800 N.E.2d 1117, ¶ 23-33 (Moyer, C.J., dissenting).

Courts of Appeals:

Swartzenruber v. Orville Grace Brethren Church, 163 Ohio App.3d 96, 2005-Ohio-4264, 836 N.E.2d 619, ¶ 5 (9th Dist.).
NOTE: The appellate district is identified at the end, in parentheses.

In re Abram, 10th Dist. Franklin Nos. 04AP-220, 04AP-221, and 04AP-222, 2004-Ohio-5435, ¶ 9-10.

Trial Courts:

State v. Roblero, 133 Ohio Misc.2d 7, 2005-Ohio-4805, 835 N.E.2d 792 (M.C.).

Kantos v. Lopez, Franklin C.P. No. CV-00-024671 (Aug. 6, 2002).
NOTE: Unpublished disposition, no WebCite, Westlaw, or Lexis citation available.

1.4. Federal Cases.

A. United States Supreme Court cases

In citing the opinions of the United States Supreme Court, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The full parallel citation, beginning with the official citation, followed by the Supreme Court Reports, followed by the Lawyers' Edition, separated by commas;
- The year of decision, in parentheses.

Use United States Law Week (U.S.L.W.) only when no U.S., S.Ct., or L.Ed.2d citation is available. When citing a case that has not yet been assigned a U.S. Reports volume and page number, provide blanks: ___ U.S .___.

HOW TO CITE UNITED STATES SUPREME COURT CASES

Beer v. United States, 425 U.S. 130, 143, 96 S.Ct. 1357, 47 L.Ed.2d 629 (1976) (Marshall, J., dissenting).

NOTE: When using a pinpoint, provide the page number for the official volume only.

Dutton v. Evans, 400 U.S. 74, 91 S.Ct. 210, 27 L.Ed.2d 213 (1970).

Heckler v. Turner, 470 U.S. 184, 191, 105 S.Ct. 1138, 84 L.Ed.2d 138 (1985).

McFarland v. Byrnes, 187 U.S. 246, 248, 23 S.Ct. 107, 47 L.Ed. 162 (1902).

United States v. Nixon, 418 U.S. 683, 699-700, 94 S.Ct. 3090, 41 L.Ed.2d 1039 (1974).

Roberts v. Bank of New York, 70 U.S.L.W. 3090 (2009).

Kansas v. Ventris, ___ U.S. ___, 129 S.Ct. 1841, 1846, 173 L.Ed.2d 801 (2009).

NOTE: When a pinpoint citation is required but is not available in U.S. Reports, use the pinpoint cite from the Supreme Court Reports.

Fletcher v. Peck, 10 U.S. 87, 128, 3 L.Ed. 162 (1810).

Cummings v. Missouri, 71 U.S. 277, 18 L.Ed. 356 (1867).

B. Federal circuit court cases

In citations of reported federal circuit cases, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The citation (generally, F., F.2d, or F.3d);
- The circuit number, written as 1st Cir., 2d Cir., etc., followed by the year of decision, with no intervening space, within parentheses (e.g., 10th Cir.2003).

HOW TO CITE FEDERAL CIRCUIT COURT CASES—REPORTED CASES
Bass v. Hoagland, 172 F.2d 205 (5th Cir.1949). *Thorpe v. Thorpe*, 364 F.2d 692 (D.C.Cir.1966). *Schoenhaus v. Genesco, Inc.*, 440 F.3d 1354 (Fed.Cir.2006).

In citations of federal circuit cases that are not reported, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The circuit number, written as 1st Cir., 2d Cir., etc.;
- The case number, written as No. ___;
- An electronic-database citation, if available, preceded by a comma;
- The date of decision (month, day, year).

HOW TO CITE FEDERAL CIRCUIT COURT CASES—UNREPORTED CASES
Moreno v. Curry, 5th Cir. No. 06-11277, 2007 WL 4467580 (Dec. 20, 2007). *or* *Moreno v. Curry*, 5th Cir. No. 06-11277, 2007 U.S. App. LEXIS 29505 (Dec. 20, 2007).

C. Federal district court cases

In citations of reported federal district court cases, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The citation (generally, F.Supp. or F.Supp.2d);
- The court of decision (district and state, but not division), followed by the year of decision, within parentheses.

Opinions of the district courts are found primarily in the Federal Supplement (F.Supp. and F.Supp.2d), the Federal Rules Decisions (F.R.D.), and the Federal Appendix (Fed.Appx.), but cases before about 1932 can be found in the Federal Reporter (F.). Opinions of bankruptcy courts may be found in Bankruptcy Reports (B.R.). The year of decision is preceded by the abbreviation "Bankr.," the district, and the state (Bankr.S.D.Ohio 1997).

HOW TO CITE FEDERAL DISTRICT COURT CASES—REPORTED CASES

Forbes v. Wilson, 243 F. 264 (N.D.Ohio 1917).
NOTE: A space follows "Ohio" because it is not an abbreviation.

Crews v. Blake, 52 F.R.D. 106, 107 (S.D.Ga.1971).
NOTE: No space follows "Ga." because it is an abbreviation.

Heath v. Westerville Bd. of Edn., 350 F.Supp. 360 (S.D.Ohio 1972).

United States v. Atlantic Richfield Co., 429 F.Supp. 830, 841 (E.D.Pa.1977), *aff'd sub nom. United States v. Gulf Oil Corp.*, 573 F.2d 1303 (3d Cir.1978).

Stephenson v. Duriron Co., 292 F.Supp. 66 (S.D.Ohio 1968), *aff'd*, 428 F.2d 387 (6th Cir.1970).

Baylor v. Mading-Dugan Drug Co., 57 F.R.D. 509, 511 (N.D.Ill.1972).

In citations of federal district court cases that are not reported, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The court of decision (district and state, but not division);
- The case number, written as No. ___;
- An electronic-database citation, if available, preceded by a comma;
- The date of decision (month, day, year).

HOW TO CITE FEDERAL DISTRICT COURT CASES—UNREPORTED CASES
United States v. Hughes, N.D.Ohio No. CR 86-98, 1987 WL 33806 (Nov. 13, 1987). *or* *United States v. Hughes*, N.D.Ohio No. CR 86-98, 1987 U.S. Dist. LEXIS 11642 (Nov. 13, 1987).

1.5. Out-of-State Court Cases.

A. Print published

In citations of out-of-state court cases that are print published, place the elements of the citation in the following order:

- The name of the case, in italics, followed by a comma;
- The official citation, if one is available;
- The unofficial citation, if one is available;
- The year of decision, within parentheses, as follows:
    - If the case is officially reported, only the year will appear in the parentheses;
    - If the case has no official reporter:
        - The name of the state (abbreviated or in full, as set forth in "**D. Abbreviations for out-of-state reporters**" below) appears before the year, if the case is from the state's highest court;
        - The name of the state (abbreviated or in full, as set forth in "**D. Abbreviations for out-of-state reporters**" below) appears followed by the word "App.," if the case is from an appellate court.

HOW TO CITE OUT-OF-STATE COURT CASES—PRINT PUBLISHED

Fendelman v. Fenco Handbag Mfg. Co., 482 S.W.2d 461 (Mo.1972).
NOTE: Mo. = Missouri Supreme Court.

Lawley v. Kansas City, 516 S.W.2d 829, 830 (Mo.App.1974).
NOTE: Mo.App. = Missouri Court of Appeals.

Johnson v. State, 815 S.W.2d 707 (Tex.Crim.App.1991).
NOTE: Tex.Crim.App. = Texas Court of Criminal Appeals.

Gissen v. Goodwill, 80 So.2d 701, 702 (Fla.1955).
NOTE: Fla. = Florida Supreme Court.

Seabrook v. Taylor, 199 So.2d 315 (Fla.App.1967).
NOTE: Fla.App. = Florida Court of Appeals.

Giguere v. Rosselot, 110 Vt. 173, 3 A.2d 538 (1939).

Richards v. Anderson, 9 Utah 2d 17, 337 P.2d 59 (1959).

In re Estate of Cavill, 459 Pa. 411, 329 A.2d 503 (1974).

Wolf v. People, 69 Misc.2d 256, 329 N.Y.S.2d 291 (1972), *aff'd*, 39 A.D.2d 864, 333 N.Y.S.2d 299 (1972).

Supervisor of Assessments v. Bay Ridge Properties, 270 Md. 216, 310 A.2d 773 (1973).

Martin v. Mut. Life Ins. Co. of New York, 189 Ark. 291, 71 S.W.2d 694 (1934).
NOTE: Names of states are not abbreviated in case captions.

State v. Luck, 353 So.2d 225, 232 (La.1977).

State v. Lesieure, 404 A.2d 457, 464 (R.I.1979).

Joseph v. Lowery, 261 Ore. 545, 495 P.2d 273 (1972).

Turley v. N. Huntingdon Twp., 5 Pa.Commw. 116, 289 A.2d 509 (1972).

Wellenkamp v. Bank of Am., 21 Cal.3d 943, 148 Cal.Rptr. 379, 582 P.2d 970 (1978).

B. Non-print published

For out-of-state court cases that are not print published, place the elements of the citation in the following order:

- The case name, in italics, followed by a comma;
- The court of decision;
- The case number, written as No. ___;
- An electronic-database citation, if available, preceded by a comma;
- The date of decision (month, day, year).

HOW TO CITE OUT-OF-STATE COURT CASES—NON-PRINT PUBLISHED CASES
D'Agostino v. Lynch, Ill.App. No. 1-06-3026, 2008 WL 527059 (Feb. 27, 2008). *or* *D'Agostino v. Lynch*, Ill.App. No. 1-06-3026, 2008 Ill. App. LEXIS 140 (Feb. 27, 2008). *El-Amin v. Adams*, Va.App. No. 0282-94-2, 1995 WL 293043 (May 16, 1995). *or* *El-Amin v. Adams*, Va.App. No. 0282-94-2, 1995 Va.App. LEXIS 446 (May 16, 1995).

C. Public-domain citation formats

A number of states have developed their own public-domain citation forms, similar to Ohio's WebCite. Use these citation forms when they are available.

HOW TO CITE PUBLIC-DOMAIN FORMATS
State v. Moore, 2010 ND 229, 791 N.W.2d 376, ¶ 7. *State v. Marinez*, 324 Wis.2d 282, 2010 WI App 34, 781 N.W.2d 511. *Staples v. Michaud*, 2003 ME 133, 836 A.2d 1288.

D. Abbreviations for out-of-state reporters

Use the following abbreviations when citing official reporters for other states or territories:

ABBREVIATIONS FOR OUT-OF-STATE REPORTERS	
Alabama Reports	Ala.
Alabama Appellate Reports	Ala.App.
Alaska Reports	Alaska
Arizona Reports	Ariz.
Arizona Appeals Reports	Ariz.App.
Arkansas Reports	Ark.
Arkansas Appellate Reports	Ark.App.
California Reporter (West)	Cal.Rptr.
California Reporter, Second Series (West)	Cal.Rptr.2d
California Reporter, Third Series (West)	Cal.Rptr.3d
California Reports	Cal.
California Reports, Second Series	Cal.2d
California Reports, Third Series	Cal.3d
California Reports, Fourth Series	Cal.4th
California Appellate Reports	Cal.App.
California Appellate Reports, Second Series	Cal.App.2d
California Appellate Reports, Third Series	Cal.App.3d
California Appellate Reports, Fourth Series	Cal.App.4th
Colorado Reports	Colo.

ABBREVIATIONS FOR OUT-OF-STATE REPORTERS (CONT.)

Colorado Court of Appeals Reports	Colo.App.
Connecticut Reports	Conn.
Connecticut Appellate Reports	Conn.App.
Connecticut Supplement	Conn.Supp.
Delaware Reports	Del.
Delaware Chancery Reports	Del.Ch.
Florida Reports	Fla.
Florida Supplement	Fla.Supp.
Florida Supplement, Second Series	Fla.Supp.2d
Georgia Reports	Ga.
Georgia Appeals Reports	Ga.App.
Hawai‘i Reports	Haw.
Hawai‘i Appellate Reports	Haw.App.
Idaho Reports	Idaho
Illinois Reports	Ill.
Illinois Reports, Second Series	Ill.2d
Illinois Appellate Court Reports	Ill.App.
Illinois Appellate Court Reports, Second Series	Ill.App.2d
Illinois Appellate Court Reports, Third Series	Ill.App.3d
Illinois Court of Claims Reports	Ill.Ct.Cl.
Indiana Reports	Ind.

ABBREVIATIONS FOR OUT-OF-STATE REPORTERS (CONT.)

Indiana Court of Appeals Reports.....Ind.App.

Iowa Reports .....Iowa

Kansas Reports.....Kan.

Kansas Court of Appeals Reports .....Kan.App.

Kansas Court of Appeals Reports, Second Series.....Kan.App.2d

Kentucky Reports.....Ky.

Kentucky Appellate Reports .....Ky.App.

Louisiana Reports .....La.

Louisiana Court of Appeals Reports.....La.App.

Maine Reports .....Me.

Maryland Reports.....Md.

Maryland Appellate Reports .....Md.App.

Massachusetts Reports .....Mass.

Massachusetts Appeals Court Reports……...Mass.App.Ct.

Michigan Reports.....Mich.

Michigan Appeals Reports.....Mich.App.

Michigan Court of Claims Reports .....Mich.Ct.Cl.

Minnesota Reports .....Minn.

Mississippi Reports .....Miss.

Missouri Reports .....Mo.

Missouri Appeals Reports.....Mo.App.

ABBREVIATIONS FOR OUT-OF-STATE REPORTERS (CONT.)

Montana Reports .....Mont.

Navajo Reporter .....Navajo Rptr.

Nebraska Reports .....Neb.

Nebraska Court of Appeals Reports.....Neb.App.

Nevada Reports .....Nev.

New Hampshire Reports .....N.H.

New Jersey Reports.....N.J.

New Jersey Superior Court Reports.....N.J.Super.

New Jersey Law Reports .....N.J.L.

New Jersey Equity Reports .....N.J.Eq.

New Mexico Reports .....N.M.

New York Reports…… .....N.Y.

New York Reports, Second Series.....N.Y.2d

- Appellate Division Reports, Supreme Court.....A.D.
- Appellate Division Reports, Second Series A.D.2d
- Miscellaneous Reports, New York .....Misc.
- Miscellaneous Reports, Second Series.....Misc.2d

New York Supplement.....N.Y.S.

New York Supplement, Second Series N.Y.S.2d

North Carolina Reports .....N.C.

North Carolina Court of Appeals Reports.....N.C.App.

ABBREVIATIONS FOR OUT-OF-STATE REPORTERS (CONT.)

North Dakota Reports .....N.D.

Oklahoma Reports.....Okla.

Oklahoma Criminal Reports .....Okla.Crim.

Oregon Reports .....Or.

Oregon Court of Appeals Reports.....Or.App.

Pennsylvania State Reports.....Pa.

Pennsylvania Commonwealth Court Reports .....Pa.Commw.

Pennsylvania Superior Court Reports .....Pa.Super.

Pennsylvania District & County Reports .....Pa.D.&C.

Pennsylvania District & County Reports, Second Series .....Pa.D.&C.2d

Pennsylvania District & County Reports, Third Series .....Pa.D.&C.3d

Pennsylvania District & County Reports, Fourth Series.....Pa.D.&C.4th

Pennsylvania District Reports.....Pa.D.

Puerto Rico Reports .....P.R.

Official Translations of the Opinions of the
Supreme Court of Puerto Rico……P.R.Offic.Trans.

Rhode Island Reports .....R.I.

South Carolina Reports .....S.C.

South Dakota Reports .....S.D.

ABBREVIATIONS FOR OUT-OF-STATE REPORTERS (CONT.)

Tennessee Reports	Tenn.
Tennessee Appeals Reports	Tenn.App.
Tennessee Criminal Appeals Reports	Tenn.Crim.App.
Texas Reports	Tex.
Texas Criminal Reports	Tex.Crim.App.
Texas Civil Appeals Reports	Tex.Civ.App.
Utah Reports	Utah
Utah Reports, Second Series	Utah 2d
Vermont Reports	Vt.
Virginia Reports	Va.
Virginia Court of Appeals Reports	Va.App.
Washington Reports	Wash.
Washington Reports, Second Series	Wash.2d
Washington Appellate Reports	Wash.App.
Washington Territory Reports	Wash.Terr.
West Virginia Reports	W.Va.
Wisconsin Reports	Wis.
Wisconsin Reports, Second Series	Wis.2d
Wyoming Reports	Wyo.

E. Abbreviations for West's regional reporters and others

Use the following list when citing West's regional reporters and other reports:

ABBREVIATIONS FOR WEST'S REGIONAL REPORTERS AND OTHER REPORTS	
Atlantic Reporter	A.
Atlantic Reporter, Second Series	A.2d
Bankruptcy Reporter	B.R.
Decisions and Orders of the National Labor Relations Board	N.L.R.B.
Federal Cases	F.Cas.
Federal Communications Commission Reports	F.C.C. / F.C.C.2d
Federal Power Commission Reports	F.P.C.
Federal Rules Decisions	F.R.D.
Federal Rules Service	Fed.R.Serv.
Federal Trade Commission Decisions	F.T.C.
Interstate Commerce Commission Reports	I.C.C.
National Labor Relations Board	N.L.R.B.
North Eastern Reporter	N.E.
North Eastern Reporter, Second Series	N.E.2d
North Western Reporter	N.W.
North Western Reporter, Second Series	N.W.2d
Pacific Reporter	P.
Pacific Reporter, Second Series	P.2d
Pacific Reporter, Third Series	P.3d

ABBREVIATIONS FOR WEST'S REGIONAL REPORTERS AND OTHER REPORTS (CONT.)	
South Eastern Reporter	S.E.
South Eastern Reporter, Second Series	S.E.2d
Southern Reporter	So.
Southern Reporter, Second Series	So.2d
South Western Reporter	S.W.
South Western Reporter, Second Series	S.W.2d
Tax Court of the United States Reports	T.C.

Use the following examples in citing West's regional reporters and other reports:

HOW TO CITE WEST REGIONAL REPORTERS AND OTHER REPORTS

In re H & W Ents., Inc., 19 B.R. 582 (N.D.Iowa 1982).

In re Miller, 10 B.R. 778 (Bankr.Md.1981).
NOTE: Bankr. = Bankruptcy Court

In re Amendment of Part 31, First Report & Order, 85 F.C.C.2d 818 (1981).

Elion Concrete, 299 N.L.R.B. 1 (1990); *Mar-Jac Poultry Co.*, 136 N.L.R.B. 73 (1962).

McAlpine v. Pacarro, 262 P.3d 622, 626 (Alaska 2011).

1.6. Foreign Cases.

Generally, place the elements of a citation for foreign cases in the following order:

- The case name in italics, followed by a comma;
- The volume and page number of the official reporter;
- The year of decision in parentheses.

HOW TO CITE FOREIGN CASES
Jones v. Smith, 1978 N.Z.L.R. 48 (1977). *The King v. Perkins*, 106 Eng.Rep. 441 (1783). *Green v. Orange*, 207 C.L.R. 12 (Austl.1996).

SECTION TWO: CONSTITUTIONS

2.1. Ohio Constitution.

When citing the Ohio Constitution, place the elements in one of the following orders, separated by commas:

- Name of Constitution, Article, Section

or

- Article, Section, Name of Constitution

NOTE: Amendments to and named clauses of the Constitution are written out in words and are capitalized.

HOW TO CITE THE OHIO CONSTITUTION
Ohio Constitution, Article IV, Section 2(B)(1)(g)
Article IV, Section 2(B)(1)(g), Ohio Constitution
Constitution, Article XVIII, Section 3
the Ohio Constitution
the Constitution
the Constitution of the state of Ohio
the Home Rule Amendment
the Due Process Clauses of the Ohio and United States Constitutions
the Equal Protection Clause
the Modern Courts Amendment

2.2. United States Constitution.

When citing the federal Constitution, place the elements in one of the following orders, separated by commas:

- Name of Constitution, Article, Section, Clause ("cl.")

or

- Article, Section, Clause ("cl."), Name of Constitution

NOTE: Amendments to and named clauses of the Constitution are written out in words and are capitalized.

HOW TO CITE THE UNITED STATES CONSTITUTION
U.S. Constitution, Article II, Section 1, cl. 1
Article II, Section 1, cl. 1, U.S. Constitution
Eighteenth Amendment to the U.S. Constitution, Section 3 *NOTE: The preposition is "to," not "of."*
Fifteenth Amendment, Section 1
the Fourteenth Amendment
the Sixth Amendment to the U.S. Constitution
the Due Process Clause
the Equal Protection Clause

SECTION THREE: STATUTES AND ORDINANCES

3.1. Ohio Statutes.

A. Abbreviations

When citing an Ohio statute, the following abbreviations apply:

OHIO STATUTE CITATION ABBREVIATIONS	
Revised Code Section	R.C.
Revised Code Chapter	R.C. Chapter
Revised Code Title	R.C. Title
General Code Section	G.C.
Revised Statutes Section (1880–1910)	R.S.

B. Section numbers, chapters, and titles

When citing an Ohio statute, begin with the appropriate abbreviation listed above, followed by the section number.

HOW TO CITE OHIO STATUTES
R.C. 3905.12
R.C. 4511.19 and 4511.191 *NOTE: "R.C." is not repeated before "4511.191."*
R.C. 4921.03(B)
R.C. Chapter 2901 *NOTE: Do not insert a period after the chapter number unless the number comes at the end of a sentence.*
R.C. Chapters 5739 and 5741
R.C. Title 29

HOW TO CITE OHIO STATUTES (CONT.)
G.C. 1524. G.C. 1465-80 (predecessor section to R.C. 4123.57(C)). R.C. 2323.10, repealed in Am.H.B. No. 1201, 133 Ohio Laws, Part III, 3017, 3020. division (B). *NOTE: The word "division" does not begin with a capital letter.*

C. Legislative acts

An act may be designated as follows:

HOW TO CITE OHIO LEGISLATIVE ACTS
Am.Sub.H.B. No. 565, Section 5, 137 Ohio Laws, Part II, 2964. Am.Sub.S.B. No. 257, 136 Ohio Laws, Part I, 646, 653-656. Am.H.B. No. 268, 126 Ohio Laws 730.

When an Ohio Laws cite is not yet available, cite the year of enactment:

HOW TO CITE LEGISLATIVE ACTS—NO OHIO LAWS CITE
2011 Am.Sub.H.B. No. 1.

3.2. Ohio Municipal Ordinances.

Cite municipal ordinances as shown in the following examples:

HOW TO CITE OHIO MUNICIPAL ORDINANCES
Cleveland Codified Ordinances 693.07. Cincinnati Municipal Code 910-9. Akron City Code 432.16. Columbus Traffic Code 2133.01(C). Codified Ordinances of the City of Cleveland.

3.3. Federal Statutes.

Cite the United States Code. Place the elements of the citation in the following order:

- The title number;
- U.S.C.;
- The section number.

HOW TO CITE FEDERAL STATUTES
26 U.S.C. 2400. 42 U.S.C. 1983. 5 U.S.C. 551 et seq. are controlling. *NOTE: Use a plural verb following the et seq. in the above example.*

3.4. Out-of-State Statutes.

When citing out-of-state statutes, use the following abbreviations:

OUT-OF-STATE STATUTE CITATION ABBREVIATIONS	
Statute(s)	Stat.
Revised	Rev.
Annotated	Ann.
Compiled	Comp.

NOTE: "Chapter," "Code," and "Title" are not abbreviated.

Cite out-of-state statutes as shown in the following examples:

HOW TO CITE OUT-OF-STATE STATUTES

Ala.Code 11-42-6.
NOTE: A section symbol (§) is not used.

Alaska Stat. 47.07.073.

Ariz.Rev.Stat.Ann. 13-1703.

Cal.Civ.Code 1785.30.

Cal.Penal Code 1103a.

Conn.Gen.Stat.Ann. 4-187.

Del.Code Ann., Title 7.
NOTE: "Title" is preceded by a comma.

Ill.Ann.Stat., Chapter 122.
NOTE: "Chapter" is preceded by a comma.

Ky.Rev.Stat.Ann. 177.990, effective June 10, 1990.
NOTE: This style is used when clarity requires the effective date of the statute.

Mich.Comp.Laws Ann., Chapter 500.

HOW TO CITE OUT-OF-STATE STATUTES (CONT.)
N.Y.Banking Law 380-h. S.D.Codified Laws 21-27-1. Tex.Water Code Ann. 55.519.

3.5. Miscellaneous Foreign Statutes.

Cite foreign statutes as shown in the following example:

HOW TO CITE FOREIGN STATUTES
Statute of Anne (1705), 11 Eng.Stat. 161, Chapter 16, Section 27.

SECTION FOUR: RULES AND REGULATIONS

4.1. Ohio Rules.

Cite Ohio rules of court as follows. There is no need to precede the citation with the word "Ohio" unless the context does not make it clear.

RULE NAMES AND THEIR ABBREVIATIONS

Rule Name	Abbreviation
Rules of Appellate Procedure…….	App.R. 9
Rules and Regulations Governing Procedure on Complaints and Hearings Before the Board of Commissioners on Grievances and Discipline……	BCGD Proc.Reg. 10(A)
Canon 8 of the Code of Judicial Conduct...	Not abbreviated
Rules of the Code of Judicial Conduct…..	Jud.Cond.R. 1.2
Rules of the Court of Claims……..	C.C.R. 4
Rules of Civil Procedure……	Civ.R. 56(C)
Staff Notes to Rules of Civil Procedure….	1994 Staff Note, Civ.R. 34
Continuing Legal Education Regulations.....	CLE Reg. 303.3
Rules of Criminal Procedure……..	Crim.R. 11 Crim.R. 2 and 10
Disciplinary Rules of the Code of Professional Responsibility……..	DR 1-101(A)(2)
Ethical Considerations of the Code of Professional Responsibility……..	EC 1-1 and 9-3
Rules of Evidence…….....	Evid.R. 601 Evid.R. 803 and 804(B)(5)

RULE NAMES AND THEIR ABBREVIATIONS (CONT.)	
Rule Name	**Abbreviation**
Supreme Court Rules for the Government of the Bar…….....	Gov.Bar R. V(4)(G)
Supreme Court Rules for the Government of the Judiciary……..	Gov.Jud.R. V
Rules of Juvenile Procedure……...	Juv.R. 21
Mayor's Court Education and Procedure Rules.....	May.Ed.R. 3
Rules of Professional Conduct……...	Prof.Cond.R. 1.4(a)
Rules of Practice of the Supreme Court….	S.Ct.Prac.R. VI(3)(A) (old format) S.Ct.Prac.R. 6.3(A) (current format)
Supreme Court Rules for the Reporting of Opinions……	Rep.Op.R. 1.2
Rules of Superintendence……...	Sup.R. 43
Traffic Rules……...	Traf.R. 23
Unauthorized Practice of Law…….	UPL Reg. 400(F)
Victims of Crime Compensation Rules…..	V.C.C.R. 1(H)(2)

4.2. Ohio Local Rules of Court.

Use the preferred short form of citation if the local rules of court set forth a preference. E.g., the Local Rules of Practice and Procedure for General Division of the Montgomery County Common Pleas Court may be cited as "Mont. Co. C. P. R. ___." When no preference is stated, follow the examples below.

HOW TO CITE LOCAL RULES OF COURT
Loc.R. 15 of the Court of Common Pleas of Cuyahoga County, General Division. Rule XXVI of the Butler County Probate Court Rules of Practice.

4.3. Federal Rules.

Use the following abbreviations in citing federal rules:

FEDERAL RULE ABBREVIATIONS	
Rule Name	**Abbreviation**
Federal Rules of Appellate Procedure……..	Fed.R.App.P. 48
Federal Rules of Civil Procedure…….	Fed.R.Civ.P. 12(a)
Federal Rules of Criminal Procedure……...	Fed.R.Crim.P. 2
Federal Rules of Evidence……	Fed.R.Evid. 411
Federal Rules of Bankruptcy Procedure……..	Fed.R.Bankr.P. 7041

4.4. Ohio Regulations.

Cite Ohio regulations as shown in the following examples:

HOW TO CITE OHIO REGULATIONS
Ohio Adm.Code 109:4-3-09. *NOTE: The word "Section" is not inserted after the word "Code."*
Ohio Adm.Code 5705-3-07(B).
Ohio Adm.Code 4901:1-7-01 et seq.
1990-1991 Ohio Monthly Record 1067.
Former Ohio Adm.Code 3745-1-05, 1977-1978 Ohio Monthly Record 3-977, effective Feb. 4, 1978.

4.5. Federal Regulations.

Cite federal regulations as shown in the following examples:

HOW TO CITE FEDERAL REGULATIONS
16 C.F.R. 113. *NOTE: C.F.R. = Code of Federal Regulations* 12 C.F.R. 545.8-3(f). 53 Fed.Reg. 24440. *NOTE: Fed.Reg. = Federal Register* Former 29 C.F.R. 101.14, 52 Fed.Reg. 23967, 23970, effective June 26, 1987.

SECTION FIVE: SECONDARY SOURCES

5.1. Restatements.

When citing a Restatement, place the elements of the citation in the following order:

- The volume number, if the Restatement has more than one volume;
- The phrase "Restatement of the Law" or "Restatement of the Law 2d," etc., followed by a comma;
- The title of the Restatement (Contracts, Torts, Agency, etc.), followed by a comma;
- The section number, if desired, preceded by the word "Section";
- The year, within parentheses.

HOW TO CITE RESTATEMENTS
1 Restatement of the Law 3d, Foreign Relations, Section 111 (1986). *NOTE: Do not use a page number when citing the section in general.*
4 Restatement of the Law 2d, Torts, Section 895C(2)(b), Comment a (1965). *NOTE: The letter designating the comment is no longer italicized. Do not use a page number when citing a comment.*
1 Restatement of the Law 2d, Conflict of Laws, Section 187, at 561 (1971). *NOTE: Use a page number when citing a specific passage or when quoting.*
1 Restatement of the Law 2d, Contracts, Section 168, at 20 (Tent.Draft 1967).
1 Restatement of the Law 2d, Contracts, Misrepresentation, Section 159 et seq. (1981).

5.2. Texts, Treatises, and Dictionaries.

When citing a text, treatise, or dictionary, generally refer to the most recent edition and place the elements of the citation in the following order:

- The volume number, if the source has more than one volume;
- The last name or full name of the author(s) of the source, if one is named, followed by a comma;
- The title of the source, in italics, followed by a comma;
- The section number, if desired, preceded by the word "Section";
- The page number, if desired, preceded by a comma;
- The year, within parentheses. If the volume is later than a first edition, include the number inside the parentheses before the year, e.g., (2d Ed.2009).

HOW TO CITE TEXTS, TREATISES, AND DICTIONARIES

8C Appleman, *Insurance Law and Practice*, Section 5071.45, 102-103 (1981).

NOTE: Do not use an ampersand character in the titles of texts, treatises, and dictionaries.

Black's Law Dictionary 101 (8th Ed.2004).

Chicago Manual of Style 656 (15th Ed.2003).

1 Jones, *Evidence*, Section 4.1, at 377 (6th Ed.Gard Rev.1972).

3 Wayne R. LaFave, *Search and Seizure*, Section 7.1(b) (3d Ed.1996).

2A Larson, *Law of Workers' Compensation*, Section 77.13, at 14-778 to 14-779 (1997).

NOTE: When the source numbers its pages with hyphens, as in this example, do not use a hyphen or en dash to indicate a range. Use the word "to."

McCormick, *Evidence*, Section 324.1, at 907-909 (3d Ed.Cleary Ed.1984).

5 McQuillin, *Municipal Corporations*, Section 16.55, at 266 (3d Rev.Ed.1990).

2 Thomas McDermott, *Ohio Real Property Law and Practice*, Section 17-41A, at 815 (3d Ed.1966).

3 Moore, *Federal Practice*, Paragraph 15.13[2] (2d Ed.1996).

4A Nichols, *Eminent Domain*, Section 15.04[2], at 15-29 (3d Rev.Ed.1997).

Ohio Jury Instructions, CV Section 537.17 (Rev. Dec. 10, 2011).

Keeton, Dobbs, Keeton & Owen, *Prosser and Keeton on the Law of Torts*, Section 4, 25-26 (5th Ed.1984).

Webster's Third New International Dictionary 1203 (1986).

HOW TO CITE TEXTS, TREATISES, AND DICTIONARIES (CONT.)
White & Summers, *Uniform Commercial Code*, Section 2-7, 97 (4th Ed.1995). 7 Wigmore, *Evidence*, Section 1986, at 242-249 (Chadbourn Rev.1981). 8 Wigmore, *Evidence*, Sections 2380-2381 (McNaughton Rev.1961).

5.3. Law Reviews.

A. Elements of citation

When citing a law review article, place the elements of the citation in the following order:

- The last name or full name of the author(s), including student authors, followed by a comma;
- The title of the article, in italics, followed by a comma;
- The volume number of the law review;
- The name of the law review, using Westlaw's or Lexis's abbreviations;
- The page number;
- The year, within parentheses.

B. Title and source

The title of an article or note is italicized. In general, use Westlaw's or Lexis's abbreviations for sources.

HOW TO CITE LAW REVIEWS
Steinberg, *Economic Perspectives on Regulation of Charitable Solicitation*, 39 Case W.Res.L.Rev. 775 (1989). Ingram, *Punitive Damages Should Be Abolished*, 17 Cap.U.L.Rev. 205 (1988). Quigley, *Ohio's Unique Rule on Burden of Persuasion for Self-Defense: Unraveling the Legislative and Judicial Tangle*, 20 U.Tol.L.Rev. 105 (1988).

HOW TO CITE LAW REVIEWS (CONT.)

Poulin, *Collateral Estoppel in Criminal Cases: Reuse of Evidence after Acquittal*, 58 U.Cin.L.Rev. 1 (1989).

Nagel, *Systems Analysis, Microcomputers, and the Judicial Process*, 14 U.Dayton L.Rev. 309 (1989).

Morgan, *Civil RICO: The Legal Galaxy's Black Hole*, 22 Akron L.Rev. 107 (1988).

Marinelli, *Accountants' Liability to Third Parties*, 16 Ohio N.U.L.Rev. 1 (1989).

Banner, *Please Don't Read the Title*, 50 Ohio St.L.J. 243 (1989).

Clark Evans Downs, *The Use of the Future Test Year in Utility Rate-Making*, 52 B.U.L.Rev. 791, 796 (1972).
NOTE: First name of author may be used.

Hufstedler, *Is America Over-Lawyered?*, 31 Cleve.St.L.Rev. 371, 373 (1982), fn. 11.

Judith Goldstein Korchin, Note, 26 U.Fla.L.Rev. 89, 90 (1973).
NOTE: Use the name of the student author.

Hochman, *The Supreme Court and the Constitutionality of Retroactive Legislation*, 73 Harv.L.Rev. 692, 696, 727 (1960).

Miller & Leasure, *Post*-Kelo *Determination of Public Use and Eminent Domain in Economic Development Under Arkansas Law*, 59 Ark.L.Rev. 43 (2006).

5.4. Annotations.

The title of an annotation is italicized but is not surrounded by quotation marks. "Annotation" is not abbreviated.

HOW TO CITE ANNOTATIONS
Annotation, 46 A.L.R.3d 578, 584 (1972) or Annotation, *Rights in Respect of Engagement and Courtship Presents When Marriage Does Not Ensue*, 46 A.L.R.3d 578, 584 (1972). Annotation, 38 A.L.R.3d 1384 (1971), or Annotation, *Attorney's Fees in Class Actions*, 38 A.L.R.3d 1384 (1971). Annotation, 20 A.L.R.Fed. 448, 454, Section 3 (1974).

5.5. Encyclopedias.

Cite encyclopedias as shown in the following examples:

HOW TO CITE ENCYCLOPEDIAS
22 American Jurisprudence 2d, Damages, Section 271, at 367 (1965). *NOTE: American Jurisprudence 2d is not abbreviated.* 47 Corpus Juris, Partition, Section 168, at 337-338 (1929). *NOTE: Corpus Juris is not abbreviated.* 27B Corpus Juris Secundum, Divorce, Section 321, at 656-657 (1959). *NOTE: Corpus Juris Secundum is not abbreviated.* 7 Encyclopedia Britannica, Abraham Lincoln, 369 (15th Ed.1986). 24A Corpus Juris Secundum, Criminal Law, Sections 1748-1750 (1962, Supp.1983). 6 American Jurisprudence 2d, Assault and Battery, Section 107 (1963, Supp.1983). *NOTE: Do not use an ampersand character in topic titles.*

HOW TO CITE ENCYCLOPEDIAS (CONT.)
16 Ohio Jurisprudence 3d, Condominiums and Co-operative Apartments, Section 20 (1979, Supp.1983). *NOTE: When citing a supplement or pocket part, use the above three examples.* 21 Ohio Jurisprudence 3d, Counties, Townships and Municipal Corporations, Section 809, at 371 (1980). *NOTE: Ohio Jurisprudence is not abbreviated.*

5.6. Ohio Attorney General Opinions.

Cite Ohio Attorney General opinions as shown in the following examples:

HOW TO CITE OHIO ATTORNEY GENERAL OPINIONS
1974 Ohio Atty.Gen.Ops. No. 74-094, at 2-382. 2011 Ohio Atty.Gen.Ops. No. 2011-003.

5.7. Nonlegal Magazines and Newspapers.

Cite nonlegal magazines and newspapers as shown in the following examples:

HOW TO CITE NONLEGAL MAGAZINES AND NEWSPAPERS
Thomas, *Ties of Blood & History*, Newsweek (Feb. 26, 2007) 50. Mehring, *Cash Registers Are Ringing Online*, Business Week (Mar. 5, 2007) 24. McCraken, *Desperate to Cut Costs, Ford Gets Union's Help*, Wall Street Journal (Mar. 2, 2007) 6. Kuhnhenn, *Federal Election Fund-Raising Rules Relaxed*, Cleveland Plain Dealer (Mar. 2, 2007) A2. *Building the Future*, Columbus Dispatch (Mar. 2, 2007) A12. *NOTE: In text, the titles of magazines and newspapers should be italicized.*

5.8. Internet.

A full Internet citation includes:

- Author (human or institutional), sponsor, or owner of the website, followed by a comma;
- The title, in italics, followed by a comma;
- The date of publication in parentheses;
- The URL;
- In parentheses, the date accessed or date updated.

NOTE: Not all the citation elements set forth above are always necessary. For example, the date of publication of statistical information published only online might not be known or important. The name of the entity sponsoring the site need not be given if it is obvious from the URL.

HOW TO CITE INTERNET SOURCES

Ohio Lawyers Assistance Program, *Signs and Symptoms of Chemical Dependency*, http://www.ohiolap.org/Signs%26Symptoms.htm (accessed Apr. 22, 2009).

Industrial Commission Form IC-12, Notice of Appeal, https://www.ohioic.com/index.html (accessed May 1, 2009).

Thomas Paine, *Common Sense, Part III* (1776), available at http://www.bartleby.com/133/3.html (accessed May 1, 2009).

Winston Churchill, speech to the House of Commons (Oct. 5, 1938), available at the Churchill Society, http://www.churchill-society-london.org.uk/Munich.html (accessed May 3, 2009).

SECTION SIX: MISCELLANEOUS CITATION RULES

6.1. Short-form Citations.

A. Generally

Short-form citations are used when a source is cited more than once; the full cite is given when the source is first cited and a short form thereafter. The short form generally uses a few identifying words from the full caption. There are no strict rules; how much of the caption to leave out is discretionary. The writer may decide to use only the plaintiff's name or the whole caption as a short form. If the plaintiff's name is lengthy (e.g., *Cambridge Commons Phase II Ltd. Partnership*), a partial name could be used, such as *Cambridge Commons.* A defendant's name may also be used (e.g., *Schiller* as a short form for *Mendoza-Hernandez Heating & Cooling Co., Inc. v. Schiller*). It is advisable to avoid common names such as Smith or common parties such as a governor or prison warden in a short-form citation.

B. Information within a short-form citation

Provide enough information in the short-form citation—or within two paragraphs preceding it—for the reader to find the case in the official reports. If the volume number of the case is not cited within a paragraph or two of the short citation form, include it in the short-form citation. This saves the reader from having to shuffle through pages looking for the volume number.

C. Short-form citations for cases that have no WebCite

When a citation includes the official volume number, do not repeat the official volume number when citing the same case if fewer than two paragraphs separate the first and second citation. If the official volume number is omitted, the parallel citation should also be omitted. The year is generally not repeated.

HOW TO USE SHORT-FORM CITATIONS WITH NO WEBCITE
Long form: *Van Fossen v. Babcock & Wilcox Co.*, 36 Ohio St.3d 100, 522 N.E.2d 489 (1988). **Short forms*:*** *Van Fossen.*

HOW TO USE SHORT-FORM CITATIONS WITH NO WEBCITE (CONT.)

Van Fossen v. Babcock & Wilcox Co., 36 Ohio St.3d at 116, 522 N.E.2d 489.

Van Fossen at paragraph one of the syllabus.

Short form within two paragraphs after official volume number:

Id. at 116 or *Van Fossen* at 116.

Short forms appearing more than two paragraphs after official volume number:

Id., 36 Ohio St.3d at 116, 522 N.E.2d 489.

Van Fossen, 36 Ohio St.3d at 116, 522 N.E.2d 489.

But not: *Van Fossen* at 116, 522 N.E.2d 489.

D. Short-form citations for cases with a WebCite

For short-form citations of cases with a WebCite, follow the same guidance as in the previous guideline, except use paragraph numbers instead of page numbers for pinpoints and include the WebCite when parallel citations are needed.

HOW TO USE SHORT-FORM CITATIONS FOR CASES WITH A WEBCITE

Long form:

Bonacorsi v. Wheeling & Lake Erie Ry. Co., 95 Ohio St.3d 314, 2002-Ohio-2220, 767 N.E.2d 707.

Short forms appearing within two paragraphs after official volume number:

Bonacorsi at ¶ 19.

Bonacorsi at syllabus.

HOW TO USE SHORT-FORM CITATIONS FOR CASES WITH A WEBCITE (CONT.)

Short form appearing more than two paragraphs after official volume number:

> *Bonacorsi*, 95 Ohio St.3d 314, 2002-Ohio-2220, 767 N.E.2d 707, at ¶ 12.

E. Short-form citations for sources other than cases

Use the following examples for short-form citations of sources other than cases.

HOW TO USE SHORT-FORM CITATIONS FOR SOURCES OTHER THAN CASES

Long form:
White & Summers, *Uniform Commercial Code*, Section 2-7, 97 (4th Ed.1995).
Short form:
White & Summers, Section 2-7, at 97.

Long form:
Black's Law Dictionary 1001 (8th Ed.2004).
Short form:
Black's at 1001.

Long form:
Pushaw, *The Medical Marijuana Case: A Commerce Clause Counter-Revolution?*, 9 Lewis & Clark L.Rev. 879, 897 (2005).
Short form:
Pushaw, 9 Lewis & Clark L.Rev. at 897.

Long form:
1 Restatement of the Law 2d, Torts, Section 288A, Comment g (1965).
Short form:
1 Restatement, Section 288A, Comment g.

HOW TO USE SHORT-FORM CITATIONS FOR SOURCES OTHER THAN CASES (CONT.)

Long form:

Annotation, *Validity, Construction, and Application of State Statute Requiring Doctor or Other Person to Report Child Abuse*, 73 A.L.R.4th 782, 789-790 (1989) *or* Annotation, 73 A.L.R.4th 782, 789-790 (1989).

Short form:

73 A.L.R.4th at 789-790.

Long form:

Siegan, *Property and Freedom: The Constitution, the Courts, and Land-Use Regulation* 18 (1997).

Short form:

Siegan, *Property and Freedom* at 18.

Long form:

22 American Jurisprudence 2d, Damages, Section 271, at 367 (1965).

Short form:

22 American Jurisprudence 2d at 367.

Long form:

2A Larson, *Law of Workers' Compensation,* Section 77.13, at 14-778 to 14-779 (1997).

Short form:

2A Larson at 14-778 to 14-779.

Long form:

3 LaFave, *Search and Seizure*, Section 7.1(b), at 442 (3d Ed.1996).

Short form:

3 LaFave at 442.

6.2. Signal Words.

A. Definition

Signals are words and phrases that are used to introduce legal authority. They tell the reader why a source is being cited when the citation serves a purpose other than direct support. For example, a citation may be intended to provide the reader with authority that contradicts a particular statement. The signal *contra* alerts the reader to that fact.

B. Style

The first letter of signal words should be capitalized only when those words begin a citation sentence. Certain signal words and phrases use commas as indicated in the examples below. Signal words and phrases are italicized.

C. Common signals

The following are common signal words and phrases:

COMMON SIGNAL WORDS AND PHRASES	
accord	*e.g.,*
but see	*see*
compare	*see also*
compare…with	*see, e.g.,*
contra	*see generally*

HOW TO USE COMMON SIGNALS

See Haverlack v. Portage Homes, Inc., 2 Ohio St.3d 26, 442 N.E.2d 749 (1982), paragraph two of the syllabus. *See also Enghauser Mfg. Co. v. Eriksson Eng. Ltd.*, 6 Ohio St.3d 31, 33, 451 N.E.2d 228 (1983), citing *Russell v. Men of Devon*, 2 T.R. 667, 672-673, 100 Eng.Rep. 359 (1788). *Accord Superior Uptown, Inc. v. Cleveland*, 39 Ohio St.2d 36, 40-41, 313 N.E.2d 820 (1974).

See, e.g., People v. Honeycutt, 20 Cal.3d 150, 141 Cal.Rptr. 698, 570 P.2d 1050 (1977); *see also State v. White*, 15 Ohio St.2d 146, 239 N.E.2d 65 (1968); *see generally State v. Barker*, 8 Ohio St.3d 39, 457 N.E.2d 312 (1983).

D. Use of signal words

When a case or other authority is cited as the source of a quote or as direct support for a statement, no signal word is necessary. In other situations, however, e.g., when a citation provides indirect support for a statement, contradicts it, or provides a useful comparison, signal words are used to explain the level of support or contradiction that the cited authority provides. As the examples below suggest, when using a signal word, consider including a parenthetical that clarifies why the case is being cited and why the signal is appropriate.

1. No signal

Use no signal before a citation when the citation provides *direct support.* In other words, use no signal when you are quoting or paraphrasing language from the source or you are identifying a source referred to in the text.

2. *See*

Use *see* when the citation provides clear support for the proposition, but the support is indirect. If inference is necessary because the source does not state the proposition explicitly, *see* is the appropriate signal.

HOW TO USE *SEE*

When a taxpayer appeals a determination of the commissioner to the BTA, the commissioner's determination is presumed to be correct, and the taxpayer must shoulder the burden of rebutting that presumption. *See Shiloh Automotive, Inc. v. Levin*, 117 Ohio St.3d 4, 2008-Ohio-68, 881 N.E.2d 227, ¶ 16 (the taxpayer bears the burden "to show the manner and extent of the error in the Tax Commissioner's final determination" and to demonstrate that the commissioner's findings are "clearly unreasonable or unlawful").

3. *Accord*

After citation or discussion of a source, use *accord* to introduce citations of one or more additional sources that provide direct support for the same proposition.

HOW TO USE *ACCORD*

While boards of revision have inherent authority to reconsider their own decisions, since the power to decide in the first instance carries with it the power to reconsider, such authority does not extend beyond institution of an actual appeal or expiration of the time for appeal. *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision*, 87 Ohio St.3d 363, 368, 721 N.E.2d 40 (2000). *Accord Natl. Tube Co. v. Ayres*, 152 Ohio St. 255, 89 N.E.2d 129 (1949), paragraph one of the syllabus ("The Board of Tax Appeals has control over its decisions until the actual institution of an appeal or the expiration of the time for an appeal").

4. *See also*

Use *see also* to indicate additional sources that provide indirect support for a proposition (see "**2. *See***" above).

HOW TO USE *SEE ALSO*

Because M.B.'s testimony was relevant to prove the essential elements of appellant's menacing-by-stalking charge and not otherwise unfairly prejudicial to him, the trial court did not abuse its discretion in admitting evidence of appellant's other prior threats and acts of physical violence. *See, e.g.*, *Horsley* at ¶ 27, 29 (evidence of past conduct toward victim, including prior conviction for telephone harassment, is relevant and properly admissible to prove essential elements of menacing-by-stalking charge); *see also Skeens*, 1999 WL 1082658, at *4 (defendant's prior acts of violence and threats toward his wife were admissible because they were directly relevant to her belief that he intended to cause her physical harm).

5. *Cf.*

Do not use *cf*. Instead, use *compare* in a variation on the *compare...with* signal, explained below.

6. *Compare*

Use *compare* alone (i.e., without "with") when the citation is to be compared with the immediately preceding citation. An explanatory parenthetical is recommended. *Compare* is used alone, where *cf.* would have been used.

HOW TO USE *COMPARE*

Unlike other statutes of limitations, R.C. 2305.07 does not define the time at which a claim for the relevant action accrues. *Compare* R.C. 2305.09 (providing that a claim for the wrongful taking of personal property does not accrue until the wrongdoer is discovered).

Unlike the father in *Masa*, Hobbs received income in excess of his total support obligation. Furthermore, food and shelter were paid for by the state due to his incarceration. Hobbs, however, failed to pay *any* support for more than a year. *Compare In re Adoption of Canter*, 5th Dist. Perry No. 98-CA-5, 1999 WL 668799, at *4 (Aug. 20, 1999) (noting that "[w]hile appellee's contribution to Stetson's support * * * may have been minimal, the evidence clearly established that appellee did not fail to provide support and maintenance to such a degree as to equate to abandonment").

7. *Compare…with*

Use *compare...with* to compare two or more citations in sequence.

HOW TO USE *COMPARE…WITH*

The 2001 statute eliminated the requirement in former R.C. 3937.18(A) that insureds must be "legally entitled to recover" from their tortfeasors and the provision that coverage is not precluded when the tortfeasor is statutorily immune from liability under R.C. Chapter 2744. *Compare* R.C. 3937.18 *with* former R.C. 3937.18(A)(1), 148 Ohio Laws, Part V, 11380, 11380-11381.

8. *Contra*

Use *contra* when the cited authority directly contradicts the stated proposition. An explanatory parenthetical is recommended.

HOW TO USE *CONTRA*

If "evidence [is] presented on almost every factor" listed in R.C. 3901.04(F)(1), that is "sufficient to indicate that a trial court adequately considered the best interest of the child." *In re Roberts*, 9th Dist. Summit No. 18269, 1997 WL 760696, at *3 (Nov. 5, 1997); *contra Dilworth v. Dilworth*, 115 Ohio App.3d 537, 542, 685 N.E.2d 847 (2d Dist.1996), fn. 1 (interpreting the General Assembly's use of the word "shall" in the statute as mandating that the trial court consider all of the enumerated factors, as well as all other relevant factors, in determining the best interests of the child).

9. *But see*

Use *but see* when the cited authority indirectly contradicts the stated proposition. *But see* is used where *see* would be used to show indirect support. An explanatory parenthetical is recommended.

HOW TO USE *BUT SEE*

While courts have admitted statements made after several hours, days, or even weeks, no court would admit a statement made eight months after the event. *See, e.g.*, *State v. Wallace*, 37 Ohio St.3d 87, 90-91, 599 N.E.2d 124 (1988) (finding that a statement made after 15 hours was admissible); *State v. Nitz*, 12th Dist. Butler No. CA2003-09-228, 2004-Ohio-6478, ¶ 24 (finding a statement made after one week admissible); *but see Butcher* at ¶ 29-34 (finding that statements made after two months were inadmissible as an excited utterance).

10. *See generally*

Use *see generally* to introduce helpful background authority.

HOW TO USE *SEE GENERALLY*

Crim.R. 12.1 provides that if a defendant fails to notify the court in writing that he intends to claim alibi, the court may exclude alibi evidence unless the interests of justice require otherwise. *See generally State v. Smith*, 17 Ohio St.3d 98, 477 N.E.2d 1128 (1985), paragraph one of the syllabus (upholding Crim.R. 12.1 as constitutional).

11. *E.g.,*

Use *e.g.* when the cited authority directly supports the proposition and is representative of several authorities that are not cited. Accurate use of *e.g.* is an effective way to avoid string cites, which are generally disfavored. *E.g.* is always followed by a comma.

HOW TO USE *E.G.*,

The absence of loan documents does not create an issue of fact in the face of the undisputed testimony. *E.g.*, *Capital-Plus, Inc. v. Potter*, 10th Dist. Franklin No. 00AP-1353, 2001 WL 604226 (June 5, 2001) (although no loan documents existed, accounting documents, coupled with the testimony of the accountant, established a paper trail of the personal loan).

12. *See, e.g.,*

Use *see*, *e.g.* to indicate that the cited authority provides indirect support for the proposition and that the cited authority is one of many that provide this same support. Note the use of two commas.

HOW TO USE *SEE, E.G.*,

The CSPA applies to contracts to build a home, however, because these transactions involve the purchase of a service rather than simply the purchase of real estate. *See, e.g., Keiber v. Spicer Constr. Co.*, 85 Ohio App.3d 391, 392, 665 N.E.2d 414 (9th Dist.1993).

While the contract did not specify exactly what words were needed to effect a cancellation, both parties could reasonably expect that any attempt to cancel would be clear and definite. *See, e.g.*, *Schwer v. Benefit Assn. of Ry. Emps., Inc.*, 153 Ohio St. 312, 319-320, 152 N.E.2d 162 (1950) (notice of policy cancellation need not be in a particular form but must be definite, unequivocal, and certain).

6.3. Citations Omitted.

A. Use

When citations are omitted from a quotation, add the parenthetical explanation "citations omitted" immediately after the quotation, before the citation. Place the period inside the parentheses. If "citations omitted" is used, ellipses to mark the omissions are unnecessary. If ellipses are used to mark the omission of a citation, "citations omitted" is unnecessary.

HOW TO USE CITATION OMITTED

"Usually, evidence regarding the diminution in value is needed to determine the reasonableness of the restoration costs. Failure to present such evidence, however, is not necessarily fatal to a claim in tort for damages to real property." (Citation omitted.) *Krofta v. Stallard*, 8th Dist. Cuyahoga No. 85369, 2005-Ohio-3720, 2005 WL 1707013, ¶ 26.

NOTE: The original quoted material from Krofta *cited a case after the first sentence, which the writer using this quote has deliberately chosen to omit. Thus, the parenthetical phrase "citation omitted" appears directly after the closing quotation marks. The use of this phrase obviates the need for an ellipsis inside the quotation.*

B. Attribution of a quotation within a quotation

If there is a quotation within a quotation, the internal quotation must be attributed, either by quoting the citation provided in the original or by adding the citation after the primary citation, following the word "quoting" (not "citing"). Do not omit internal quotation marks. It is not acceptable to use the parenthetical explanation "citations omitted" or "internal quotation marks and citations omitted" to excuse the omission of a citation for a quotation within a quotation. If a quotation is cluttered with pointless internal quotations, paraphrase it instead of quoting it.

HOW TO ATTRIBUTE AN INTERNAL QUOTATION

A notice of appeal " 'must explicitly and precisely recite the errors contained in the tax commissioner's final determination.' " *Newman v. Levin,* 120 Ohio St.3d 127, 2008-Ohio-5202, 896 N.E.2d 995, ¶ 27, quoting *Cousino Constr. Co. v. Wilkins,* 108 Ohio St.3d 90, 2006-Ohio-162, 840 N.E.2d 1065, ¶ 41.

6.4. Explanatory Case History.

A. Style

Explanatory terms such as *overruled*, *aff'd*, *rev'd*, *rev'd on other grounds*, *overruled in part on other grounds*, *appeal dismissed*, or *vacated on other grounds* are italicized and abbreviated as shown, followed by commas.

B. History affecting precedential value

Always indicate any reversal, vacation, or overruling, even if that subsequent action is based on other grounds. Do not include any further history of a case unless it affects the case's precedential value. *Cert. denied* is an example of subsequent history that has no effect on the authoritativeness of a case and is therefore not used, except for a very recent case.

HOW TO ADD AN EXPLANATORY CASE HISTORY

State v. Veney, 120 Ohio St.3d 176, 2008-Ohio-5200, 897 N.E.2d 621, *cert. denied*, ___ U.S. ___, 129 S.Ct. 2824, ___ L.Ed.2d ___ (2009).

Morway v. Durkin, 181 Ohio App.3d 195, 2009-Ohio-932, 908 N.E.2d 510 (7th Dist.), *appeal not accepted*, 122 Ohio St.3d 1478, 2009-Ohio-3625, 859 N.E.2d 559.

NOTE: Cert. denied *and* appeal not accepted *are useful in these two examples, in which the case is recent. Otherwise, when the time for reversal has obviously passed, do not record the denial of an appeal in a history line.*

State v. Lockett, 49 Ohio St.2d 48, 65, 358 N.E.2d 1062 (1976), *rev'd on other grounds*, *sub nom. Lockett v. Ohio*, 438 U.S. 586, 98 S.Ct. 2954, 57 L.Ed.2d 973 (1978).

Hwy. Truck Drivers & Helpers Local 107 v. Cohen, 284 F.2d 162 (3d Cir.1960), *aff'g* 182 F.Supp. 608 (E.D.Pa.1960).

But see United States v. Hoffa, E.D.Tenn. No. 11989 (May 2, 1964), *conviction and overruling of first motion for new trial aff'd*, 349 F.2d 20 (6th Cir.1965), *aff'd,* 385 U.S. 293, 87 S.Ct. 408, 17 L.Ed.2d 374 (1966), *second motion for new trial denied,* 247 F.Supp. 692 (E.D.Tenn.1965), *aff'd,* 376 F.2d 1020 (6th Cir.1967), *third motion for new trial denied,* 247 F.Supp. 692, 698 (E.D.Tenn.1965), *aff'd,* 382 F.2d 856 (6th Cir.1967), *fourth motion for new trial denied,* 268 F.Supp. 732 (E.D.Tenn.1967), *aff'd,* 398 F.2d 291 (6th Cir.1968), *remanded sub nom. Giordano v. United States*, 394 U.S. 310, 89 S.Ct. 1163, 22 L.Ed.2d 297 (1969), *fifth motion for new trial denied,* 307 F.Supp. 112 (E.D.Tenn.1970).

NOTE: A history line this detailed is rarely necessary or helpful.

6.5. Placement of Citation.

When deciding where to place a citation, strive for maximum readability using the following guidelines:

- Citations offer support. A citation must be provided in support of any sentence in which the writer sets forth a statement of the law, makes a legal argument, refers to a legal source, or quotes or paraphrases language from a source. The guidelines for citation style appear throughout this manual. The entire point of citations and of the signal words or phrases preceding them is to communicate to the reader exactly which source is being relied upon and for what purpose (for direct support, for contrast, for background, etc.). When citing, include pinpoint citations to refer the reader to the exact page or paragraph that supports the proposition.

- Citations are best placed at the end of a sentence. Because nonstatutory citations contain so many abbreviations and numbers, they are not very readable as part of textual sentences. The best way to include nonstatutory citations in text in a way that promotes readability is to put them in a separate citation sentence whenever possible. If a sentence seems to require a citation in the middle, try to restructure the sentence to avoid the midstream citation. Often a sentence with a citation in the middle can be revised by simply extracting the citation from the center of the sentence and moving it to the end.

- Avoid placing all citations in footnotes. The practice of placing all citations in footnotes is disfavored, as it makes it difficult for the reader to connect the authority to the proposition.

WHERE TO PLACE A CITATION

Bad example:

> Ohio courts have addressed more than once the recovery of damages for injuries caused by a dog bite. Only in *McGuffin*, 101 Ohio App.3d 201, 2004-Ohio-1, 301 N.E.2d 401, ¶ 27 (3d Dist.), the case certified as conflicting with the decision of the court below, has a court held that the dog's owner could recover from the victim.

WHERE TO PLACE A CITATION (CONT.)

Better example:

> There is only one known Ohio decision in which the court has held that a dog's owner can recover from the victim, and that case has been certified as conflicting with the decision of the court below: *McGuffin v. Hearst*, 101 Ohio App.3d 201, 2004-Ohio-1, 301 N.E.2d 401, ¶ 27 (3d Dist.).

Bad example:

> In an early dog-bite case, *Nickels v. Baty*, 1 Ohio N.P.(N.S.) 12, 4 Ohio Dec. 101, 1901 WL 101 (1901), the court granted a motion to strike a claim for lost wages brought by the dog's owner.

Better example:

> In an early dog-bite case, the court granted a motion to strike a claim for lost wages brought by the dog's owner. *Nickels v. Baty*, 1 Ohio N.P.(N.S.) 12, 4 Ohio Dec. 101, 1901 WL 101 (1901).

6.6. Emphasis Sic, Emphasis Added, Emphasis Deleted.

A. General

Emphasis sic, emphasis added, and emphasis deleted are three terms used to indicate that the immediately preceding quote has been altered to add or delete emphasis or to indicate that the emphasis in the quote was in the original. All three appear in parentheses, after the ending quotation mark but before the citation, with a period inside the closing parenthesis and the word "emphasis" capitalized.

B. Emphasis sic

The term "emphasis sic" is used to indicate that the word or words emphasized with italics were also italicized in the original.

HOW TO USE EMPHASIS SIC

The contract provides that "the parties *shall* deposit $100 with the escrow agent." (Emphasis sic.)

NOTE: The period appears inside the parenthesis.

C. Emphasis added

The term "emphasis added" is used to indicate that the word or words in italics were not italicized in the original.

HOW TO USE EMPHASIS ADDED

The contract provides that "*the parties* shall deposit $100 with the escrow agent." (Emphasis added.)

"[*U*]*nsupported* conclusions are not considered admitted and are not sufficient to withstand a motion to dismiss." (Emphasis added.) *State ex rel. Smith v. Ohio Adult Parole Auth.*, 61 Ohio St.3d 602, 603, 575 N.E.2d 840 (1991).

NOTE: The term "emphasis added" appears after the quote but before the citation.

D. Emphasis deleted

Use the term "emphasis deleted" to indicate that quoted material had an italicized word or phrase from which the italics have been removed.

HOW TO USE EMPHASIS DELETED

This court concluded that "any stay of an order of the commission is dependent on the execution of an undertaking by the appellant." (Emphasis deleted.)

NOTE: In the original opinion being quoted, the word "appellant" is in italics.

6.7. Spacing within Parentheses in Citations.

In citations, spacing within parentheses should comply with the following guidelines.

A. Abbreviated words

Except as provided in "**C. Ordinal numbers**" and "**D. Names of months**" below, abbreviated words within parentheses are not followed by a space.

HOW TO USE ABBREVIATED WORDS WITHIN PARENTHESES
Sullivan v. Liberty Mut. Ins. Co., 367 So.2d 658 (Fla.App.1979).
United States v. Davis, 562 F.2d 681 (C.A.D.C.1977).
Graley v. Satayatham, 343 N.E.2d 832 (C.P.1976).

B. Unabbreviated words

Unabbreviated words within parentheses are followed by a space.

HOW TO USE UNABBREVIATED WORDS WITHIN PARENTHESES
State v. John, 586 P.2d 410 (Utah 1978).
Woods v. Dayton, 574 F.Supp. 689 (S.D.Ohio 1983).

C. Ordinal numbers

Ordinal numbers within parentheses are followed by a space.

HOW TO USE ORDINAL NUMBERS WITHIN PARENTHESES
Black's Law Dictionary 826 (7th Ed.1999).
Prosser & Keeton, *The Law of Torts*, Section 80 (5th Ed.1984).

D. Names of months

Names of months within parentheses are followed by a space, whether abbreviated or not.

HOW TO USE NAMES OF MONTHS WITHIN PARENTHESES
Hearing v. Delnay, 10th Dist. Franklin No. 76AP-493 (Dec. 21, 1976).
Tavzel v. Aetna Life & Cas. Co., 8th Dist. Cuyahoga No. 53931 (June 16, 1988).

6.8. Months of the Year.

In citations, the months of the year are abbreviated as follows:

ABBREVIATIONS FOR MONTHS OF THE YEAR			
January	Jan.	July	July
February	Feb.	August	Aug.
March	Mar.	September	Sept.
April.	Apr.	October	Oct.
May	May	November	Nov.
June	June	December	Dec.

6.9. Abbreviations in the Style or Citation of a Case.

Use the following list of abbreviations when citing cases and in the cite-as line. Plurals of these words can, for the most part, be abbreviated by adding an "s" before the period, e.g., "Boards" is replaced with "Bds." If the abbreviation ends in "s," the abbreviation is the same for both the singular and the plural, e.g., "System" and "Systems" are abbreviated "Sys." If an abbreviation ends in "y," the plural form of the word must be spelled out, e.g., "Counties" is not abbreviated.

ABBREVIATIONS IN THE STYLE OR CITATION OF A CASE

Accident.....Acc.

Administrative.....Adm.

Administrator (abbreviated in formal case caption).....Admr.
NOTE: Do not use "administratrix."

Also known as (abbreviated in formal case caption).....a.k.a.

America, -n .....Am.

And.....&

Apartment .....Apt.

Associate .....Assoc.

Association.....Assn.

Assurance.....Assur.

Attorney General (abbreviated in formal case caption) ..... Atty. Gen.

Auditor (abbreviated in formal case caption)..... Aud.

Authority.....Auth.

Automobile .....Auto.

Avenue .....Ave.

Board.....Bd.

Boulevard.....Blvd.

Brotherhood .....Bhd.

Brothers.....Bros.

Building.....Bldg.

ABBREVIATIONS IN THE STYLE OR CITATION OF A CASE (CONT.)

Bureau	Bur.
Casualty	Cas.
Center	Ctr.
Central	Cent.
Chemical	Chem.
Civil	Civ.
Commission	Comm.
Commissioner	Commr.
Committee	Commt.
Company	Co.
Compensation	Comp.
Consolidated	Consol.
Construction	Constr.
Contractor	Contr.
Cooperative	Coop.
Corporation	Corp.
Corrections, -al	Corr.
County	Cty.
Department	Dept.
Development, -al	Dev.

ABBREVIATIONS IN THE STYLE OR CITATION OF A CASE (CONT.)

Director (abbreviated in formal case caption) ..... Dir.

Distributor, -ion, -ing ..... Distrib.

District..... Dist.

Division..... Div.

Doing business as (abbreviated in formal case caption)..... d.b.a.

East, -ern ..... E.

Education ..... Edn.

Electric, -al..... Elec.

Employee, -er, -ment..... Emp.

Engineering..... Eng.

Enterprise ..... Ent.

Equipment..... Equip.

Executor (abbreviated in formal case caption)..... Exr.
NOTE: Do not use "executrix."

Federal..... Fed.

Federation ..... Fedn.

Fidelity ..... Fid.

Finance, -ial..... Fin.

Footnote ..... fn.

Formerly known as (abbreviated in formal case caption) ..... f.k.a.

Foundation ..... Found.

ABBREVIATIONS IN THE STYLE OR CITATION OF A CASE (CONT.)

General	Gen.
Government	Govt.
Guaranty and Guarantee	Guar.
Guardian (abbreviated in formal case caption)	Grdn.
Heights	Hts.
Highway	Hwy.
Hospital	Hosp.
Housing	Hous.
Illuminating	Illum.
Incorporated	Inc.
Indemnity	Indemn.
Independent	Indep.
Industrial	Indus.
Institute, -ion	Inst.
Insurance	Ins.
In the matter of	In re
International	Internatl.
Investment	Invest.
Liability	Liab.

ABBREVIATIONS IN THE STYLE OR CITATION OF A CASE (CONT.)

Limited	Ltd.
Machinery	Mach.
Management	Mgt.
Manager (abbreviated in formal case caption)	Mgr.
Manufacturer	Mfr.
Manufacturing	Mfg.
Market	Mkt.
Medical	Med.
Memorial	Mem.
Metropolitan	Metro.
Mount	Mt.
Mortgage	Mtge.
Municipal	Mun.
Mutual	Mut.
National	Natl.
North, -ern (except when part of state name)	N.
Now known as (abbreviated in formal case caption)	n.k.a.
Number	No.
Organization	Org.
Product, -ion	Prod.

ABBREVIATIONS IN THE STYLE OR CITATION OF A CASE (CONT.)

Prosecuting Attorney	Pros. Atty.
Psychiatric	Psych.
Public	Pub.
Railroad	RR.
Railway	Ry.
Refrigeration	Refrig.
Rehabilitation	Rehab.
Reserve	Res.
Review	Rev.
Road	Rd.
Sanitary	Sanit.
Saving	Sav.
Savings & Loan	S. & L.
Secretary (abbreviated in formal case caption)	Secy.
Security	Sec.
Service	Serv.
Society	Soc.
South, -ern (except when part of state name)	S.
Standard	Std.
Street	St.

ABBREVIATIONS IN THE STYLE OR CITATION OF A CASE (CONT.)	
Surety	Sur.
System	Sys.
Telegraph	Tel.
Telephone	Tel.
Township	Twp.
Transmission	Transm.
Transportation	Transp.
Unemployment	Unemp.
University	Univ.
Utility and Utilities	Util.
West, -ern (except when part of state name)	W.

6.10. Use of *Id.*, *Supra*, and *Infra.*

A. *Id.*

Use *id.* when referring to the immediately preceding cited authority.

HOW TO USE *ID.*
Haller held that "a releasor ought not to be allowed to retain the benefit of his act of compromise and at the same time attack its validity." *Id.* at 14. The element of publication occurs when the defamatory matter is communicated either negligently or intentionally to anyone other than the person defamed. 3 Restatement of the Law 2d, Torts, Section 577(1)

HOW TO USE *ID.* (CONT.)

(1965). Any act by which the defamatory matter is communicated to a third party constitutes publication. *Id.* at Comment a.

Punitive damages are not available in an ordinary negligence action, *id.* at ¶ 11, and appellants were not entitled to an instruction on that issue.

NOTE: Id. *is not capitalized when it appears in midsentence.*

B. *Supra* and *infra*

The use of s*upra* and *infra* is limited to citations. They should not be used to refer to textual material, i.e., do not write "As we held *supra.*" Write "As we held above."

HOW TO USE *SUPRA* AND *INFRA*

It is the trial court's responsibility to determine the admissibility of evidence. *Getsy*, *supra*, at 201.

See Grover, *Punitive Damages in Ohio*, *infra*, 144 U.Tol.L.Rev. at 43.

PART II. STYLE GUIDE

INTRODUCTION TO THE STYLE GUIDE

The Style Guide sets forth standard guidelines for formal English writing. When more than one correct standard or practice exists, one alternative has been chosen.

The guide makes no attempt to be comprehensive. For rules of punctuation, grammar, diction, hyphenation, and usage that are not covered by this guide, the Reporter's Office follows conventions of standard English and relies in particular on *The Chicago Manual of Style*; Sabin, *The Gregg Reference Manual*; Johnson, *The Handbook of Good English*; Garner, *A Dictionary of Modern Legal Usage*; and Strunk & White, *The Elements of Style.*

SECTION SEVEN: CAPITALIZATION

7.1. Proper Nouns and Proper Adjectives.

Capitalize only proper nouns and proper adjectives.

7.2. Titles of Persons.

Capitalize a person's title when it is used immediately before the personal name as part of the name. Lowercase the title when it follows the name and when it is used in place of the name. Titles are not capitalized when used as appositives, even when they directly precede the name.

HOW TO USE CAPITALIZATION IN PERSONS' TITLES
Lucien Fignon, judge of the Cuyahoga County Common Pleas Court; Judge Fignon; members included the common pleas court judge Lucien Fignon and the banker Bill Coates (appositives); Common Pleas Court Judge Lucien Fignon attended (title); federal judge Ron Gage
Justice Archer; Phillip Archer, justice of the Supreme Court of Ohio; the justices
Gaston Puttemans, J.D.; attorney Puttemans
Mayor Roelants; Emil Roelants, mayor of Columbus
the secretary of state; Secretary Ellenberger; Secretary of State Ellenberger; Marita Ellenberger, secretary of state
the township trustees; the board of trustees; Trustee Laski
the chief justice; the former justice William Rehnquist; Chief Justice Rehnquist; William Rehnquist, chief justice of the United States
Tax Commissioner Phelps; Commissioner Phelps; the commissioner; the tax commissioner
the governor; Governor John Landis; John Landis, governor of Ohio; former governor John Landis
the Wood County prosecuting attorney; Prosecuting Attorney Fletcher

7.3. Public Offices, Agencies, and Entities.

Capitalize full proper names of entities and certain short forms.

HOW TO USE CAPITALIZATION IN PROPER NAMES OF ENTITIES AND SHORT FORMS
the Erie County Court of Appeals; the court of appeals; the court; the Sixth District Court of Appeals; the Sixth District
the Supreme Court of Ohio; the Supreme Court; the court
the General Assembly; the legislature; the Ohio legislature; the House; the Senate; the upper house
the Court of Common Pleas of Franklin County; the Franklin County Common Pleas Court; the court; the common pleas court
the United States District Court for the Northern District of Ohio; the United States district court
the Court of Claims
the Bureau of Workers' Compensation; the bureau
the city of Columbus; the city; the city council; Columbus City Council
Brown Township; the township board of trustees; the Brown Township Board of Trustees; the Board of Trustees of Green Township
the Cleveland police; the police department; the Cleveland Division of Police
Perrysburg City School District; Perrysburg public schools; the school district; the board of education
the State Board of Education; the Department of Education
the Columbiana County Grand Jury; the grand jury

SECTION EIGHT: DATES IN TEXT

Months are spelled out in text. When the date is a full one, i.e., month, day, and year, a comma always follows the day. A comma also follows the year unless (1) the date is being used as an adjective or (2) the year ends the sentence. If only the month and the year are used, do not use a comma or the word "of" after the month.

HOW TO USE DATES IN TEXT
The journal was first issued on August 25, 1948. *NOTE: August is not abbreviated in the above example.*
The building was completed in July 1983. *NOTE: There is no comma and no "of" between July and 1983.*
On July 7, 26 days later, the petitioner filed the first motion for protection.
On February 2, 1984, the appellant received the January order.
June 23, 1981, was the date of the journal entry. *NOTE: In a phrase of month, day, and year, put a comma after the year, unless the phrase is used as an adjective. See next example.*
The plaintiff was not a party to the April 3, 1963 agreement. *NOTE: Do not follow a date used as an adjective with a comma.*
from August 22, 1973, to December 1973
July or August 1977
The hearing was held on July 16, August 14, and August 15, 1980.
The hearing was held on March 13, 14, and 15, 2007.
during the 1980-1981 school year
since the 1950s

SECTION NINE: USE OF NUMBERS

Generally, spell out whole cardinal numbers one through ten and ordinals first through tenth (exceptions: citation of editions and of appellate districts). For other numbers, use numerals (exceptions: syllabus paragraph numbers and Amendments to the United States Constitution). When numerals and spelled-out numbers would both be used for items in the same category within the same paragraph or series of paragraphs, numerals may be used for all.

Spell out all numbers that begin a sentence.

Use numerals with the word "percent" and with abbreviated units of measure.

Numerals may be used for items that are part of a numbered series that are referred to by their numbers, e.g., assignment of error No. 1, state's exhibit No. 5.

The words "thousand," "hundred thousand," "million," and so on may be used to replace a string of zeros.

When using numerals and letters to abbreviate ordinals, do not use superscript letters: 3d and 21st, not 3^{d} and 21^{st}.

HOW TO USE NUMBERS
paragraph two of the syllabus
First Amendment to the United States Constitution
Fourteenth Amendment to the United States Constitution
East 105th Street
9 m.p.h.
14-year-old girl
The witness was 12 years old
The parcel was 1,200 feet wide
one million volts or 1,000,000 volts
$1 million or $1,000,000

HOW TO USE NUMBERS (CONT.)

$1.3 million or $1,300,000

$7,500 in punitive damages

$56.27

$.05 or five cents

287.06 meters

5 percent

543 automobiles

4.2 acres

He saw only one man in the store.

Three thousand two women registered for the event. (Spell out numbers at the beginning of a sentence.)

12-gauge shotgun

.22-caliber rifle

9 mm handgun (use numerals with abbreviations for units)

NOTE: Do not use hyphens to join a numeral to an abbreviated unit of measure. Except for caliber of firearms and very common abbreviations such as m.p.h., do not use abbreviated units of measure in ordinary text: 40 kilograms of cocaine, not 40 kg of cocaine.

a nine-foot pole

the 11th juror

two-thirds of the property

five and one-half miles

12.5 miles or 12½ miles

fn. 3

The farmer has 25 cows and 4 sheep.

NOTE: This example illustrates the exception to spelled-out numbers in text described above. The "4" would ordinarily be spelled out.

HOW TO USE NUMBERS IN NUMBERED SERIES

assignment of error No. 1

stipulation No. 2

Count 4 of the indictment

exhibit No. 5

proposition of law No. 3

NOTE: The above five examples use numerals for a numbered series.

SECTION TEN: PUNCTUATION

10.1. Lists.

Colons are properly used to introduce lists, but only if the list is introduced by a full sentence. The presence of a list does not justify using a colon in the middle of a sentence. In particular, do not place a colon between a verb and its object or complement or between a preposition and its object, even if the complement or object is a list. That is, *do not* write, "The elements of a negligence claim are: duty, breach of a duty, causation, and damages."

NOTE: Observe parallelism in lists. If the first four elements in a list are verbs, do not use a noun for the fifth.

HOW TO FORM A LIST
Incorrect: A plaintiff in a tort case must prove (1) duty, (2) breach of that duty, (3) proximate cause, and (4) that he has been damaged.
Correct: A plaintiff in a tort case must prove (1) duty, (2) breach of that duty, (3) proximate cause, and (4) damages.

10.2. Placement of Quotation Marks Relative to Other Punctuation.

Place quotation marks outside commas and periods but inside semicolons and colons. If the quote is incorporated into a question by the quoter, place the question mark outside the quotation mark.

WHERE TO PLACE QUOTATION MARKS
Bill said, "The manuscript is ready."
What did he mean by "ready"?
Although the statute uses the word "shall," it is clear that the legislature intended "may."
"Property" as defined by R.C. 2901.01(J)(1) means "any property, real or personal."

WHERE TO PLACE QUOTATION MARKS (CONT.)
The court gave the following examples for the use of the word "shall": "(1) * * *."

10.3. Punctuation and Capitalization of Quotations.

After an introductory phrase such as *the statute provides*, *we held*, and *the court said*, use a comma or a colon and begin the quotation with an uppercase letter. If the quoted material begins with a lowercase letter, change it to upper case and indicate the change with brackets.

When a quotation is introduced with *that*, as in phrases such as *we held that* and *the rule provides that*, use no comma and begin the quotation with a lowercase letter. If the quote begins with a capital letter, change it to lower case and indicate the change with brackets.

HOW TO PUNCTUATE QUOTATIONS
"No person," the statute commands, "shall spit on the sidewalk."
The statute states that "[n]o person shall spit on the sidewalk."
The statute continues, "The director shall promulgate rules."
The statute says that "[t]he director shall promulgate rules."
"Moreover," he said, "the contract was drafted by a pettifogger."
He said that "the contract was drafted by a pettifogger."
He said, "[T]he contract was drafted by a pettifogger."

10.4. Block Quotations.

Generally, use block quotations when the text will be longer than four lines. Do not change line spacing or font, but set off the quotation by additional margins on the left and right. Use quotation marks only for quotations within the block text. The source of the quotation may follow the quotation, as in the first example below, or it may introduce the quotation, as in the second example.

NOTE: Block quotations should not be given paragraph numbers.

HOW TO FORMAT A BLOCK QUOTATION

{¶ 5} The attorney general claimed to have a conflict of interest and declined to participate in the case in any way, including appointment of special counsel. The statute requires the attorney general to

> represent the administrator and the commission. In the event the attorney general or the attorney general's designated assistants or special counsel are absent, the administrator or the commission may select one or more of the attorneys in the employ of the commission * * *.

R.C. 4123.512(C).

{¶ 10} The Ohio Revised Code permits the admission of expert testimony on battered-woman syndrome in support of the defense of self-defense. R.C. 2901.06(B) provides:

> If a person is charged with an offense involving the use of force against another and the person, as a defense to the offense charged, raises the affirmative defense of self-defense, the person may introduce expert testimony of the "battered woman syndrome" and expert testimony that the person suffered from that syndrome as evidence to establish the requisite belief of an imminent danger of death or great bodily harm that is necessary, as an element of the affirmative defense, to justify the person's use of the force in question. The introduction of any expert testimony under this division shall be in accordance with the Ohio Rules of Evidence.

10.5. Ellipses.

Indicate an omission of a word or words from quoted material by using an ellipsis (* * *). The asterisks are separated by spaces. When using ellipses, observe the following guidelines:

- Do not begin a quotation with an ellipsis;
- At the end of a quotation, do not use an ellipsis after a period;
- If what is quoted is obviously a sentence fragment, do not use an ellipsis at the beginning or end of the quotation.

Indicate the omission of the end of a sentence with an ellipsis, not a bracketed period.

When a paragraph is omitted from the middle of a multiparagraph quote, indicate the omission with a paragraph consisting of an ellipsis preceded by a quotation mark.

10.6. Placement of Footnote Numerals Relative to Punctuation.

Superscript numerals for footnotes go after punctuation (except a dash), including a semicolon.

SECTION ELEVEN: FOOTNOTES

11.1. Use of Footnotes.

Footnotes are to be discouraged generally. They are intrusive and often unnecessary.

Footnotes can be helpful in certain contexts. A footnote may be appropriate when the point being made is relevant but would distract the reader or interrupt the flow of an argument. But footnotes should always be used sparingly. The use of too many footnotes tests the reader's patience and lessens the probability that any will be read.

Footnotes are best reserved for sidelights or peripheral material. Examples of information that may belong in a footnote:

- Excerpts of testimony;
- Statutory text;
- Contractual clauses;
- Procedural details (a party was dismissed, for example);
- Legislative history;
- Surveys;
- Explanatory notes (e.g., "The term 'jail-time credit' is used as shorthand for custody credit").

Do not use footnotes for legal analysis. If the point being made is substantive, it belongs in the body of the opinion. If it is nonsubstantive, it may be relegated to a footnote.

Before adding a footnote, the writer should consider whether the information being imparted is relevant and helpful. If not, the footnote should be discarded.

11.2. Citations in Footnotes.

Citations of authority belong in the body of an opinion. Do not follow the practice of relegating all citations to footnotes.

SECTION TWELVE: ITALICS

12.1. Use of Italics.

Use italics for signal words, *id.*, case captions, and case histories in citations.

Do not italicize Latin or other foreign words and phrases.

In quoted material, italics may be retained, added, or deleted, but all three choices must be indicated by the use of "emphasis sic," "emphasis added," or "emphasis deleted," as explained in "**6.6. Emphasis Sic, Emphasis Added, Emphasis Deleted**" in the Manual of Citations above.

Use italics for emphasis, but sparingly. Overuse of italics can dilute the desired emphasis. Never italicize an entire quotation for emphasis. It will rarely be helpful to italicize even so much as a third of a quotation for emphasis. Emphasis is often best achieved through word choice and sentence structure.

12.2. Reverse Italics.

When text to be italicized includes words that are already italic (typically a case name), change them to roman font to preserve the contrast. This so-called reverse italics applies when emphasis is added to quotations and to italicized headings and headnotes.

HOW TO USE REVERSE ITALICS

The court stated, "The statute will always be tolled under these circumstances, *unless the rule in* Storer *applies*, regardless of the saving clause." (Emphasis added.)

NOTE: Example of quoted phrase italicized for emphasis, with case name in reverse italics.

Application of the Storer *doctrine*

NOTE: Example of a heading in italics with case name in reverse italics.

SECTION THIRTEEN: ACRONYMS, ABBREVIATIONS, AND PARENTHETICAL REFERENCES

13.1. Definition.

An acronym is distinguished from other abbreviations by the fact that an acronym can be pronounced, e.g., PETA, AIDS, MADD, OSHA, NASDAQ. Acronyms are not always formed from just the first letter of each component part, e.g., FANNIE MAE, NASCAR, NAVSAT. Nor are they always all capitals, e.g., Eurail, laser, blog. An abbreviation is formed from the initial letter of each component word, e.g., NBC, IRS, CLE.

An abbreviation need not be recognizable or widely used. The author may decide to abbreviate the name of any litigant or other entity. Example: Smith, Jones & Brown, L.L.C. ("SJ&B") sought an injunction in the trial court.

NOTE: Common abbreviations formed by shortening a single word, such as Dr., Feb., and Blvd., are not susceptible of overuse and are not the subject of this section.

13.2. Use and Overuse.

Acronyms and abbreviations are useful tools for avoiding tedious repetition of the same phrase or name. At the same time, overuse can be counterproductive. A printed page littered with clumps of capital letters will irritate and discourage readers. Unfortunately, overuse is not easily defined. Common sense is the best guide.

13.3. Identification.

A writer should always identify acronyms and abbreviations before using them, even when they are familiar to readers. At the first reference, use the full name with a parenthetical containing the acronym or abbreviation, in quotes. Example: In July 2007, appellant filed an application with the Public Utilities Commission of Ohio ("PUCO") to increase its rates.

13.4. Plurals.

The plural of an acronym or other abbreviation is typically formed by adding a lowercase "s" without an apostrophe, e.g., SUVs, DVDs, PACs, MP3s.

13.5. Parenthetical References.

The author may choose a descriptive word to use as a continuing reference for one or more persons or entities. Example: Doe seeks a writ of mandamus against the Board of Commissioners of Blank County, Blank County clerk of courts, and John Doe, Blank County treasurer ("the appellants"). When the shortened form is chosen, later references should always use that form.

SECTION FOURTEEN: THE CASE CAPTION

14.1. The Formal Case Caption.

The formal case caption is taken from the original pleading in a case, whether it is a complaint in the trial court, a petition for a writ in the court of appeals, or an original action in this court. Thus, the name of a party who has long since dropped out of the litigation may well appear in the caption. Names of juveniles are to be treated in accordance with "**E. References to juveniles**" under "**14.4 Miscellaneous Caption Matters**" below.

The following rules apply to formal captions:

- The formal caption line appears in large and small capital letters, in bold type;
- The "*v.*" is italicized and is lower case, not a small capital letter;
- First names are omitted.

To determine the correct formal caption for a case, go to the original complaint, or to a later amended complaint if it substitutes a party, whether filed in the trial court, a government agency, the court of appeals, or here, and follow the order of names as they are listed on that pleading.

Consider a pleading that is captioned as follows:

> Mary Stern
> and
> Joseph Lynch,
>
> Plaintiffs,
>
> v.
>
> XYZ Corporation
> and
> Harvey Kent
> and
> ABC Law Firm,
>
> Defendants.

HOW TO DO FORMAL CAPTIONS FOR AN APPEAL

If Mary Stern and Joseph Lynch in the above pleading are the appellants in this court and all defendants are appellees, the formal caption would read:

STERN ET AL., APPELLANTS, *v.* XYZ CORPORATION ET AL., APPELLEES.

If Mary Stern is the sole appellant:

STERN, APPELLANT, ET AL., *v.* XYZ CORPORATION ET AL., APPELLEES.

If Lynch is the sole appellant:

STERN; LYNCH, APPELLANT, *v.* XYZ CORPORATION ET AL., APPELLEES.

If Stern and Lynch are appellees, and XYZ is the sole appellant:

STERN ET AL., APPELLEES, *v.* XYZ CORPORATION, APPELLANT, ET AL.

If Kent is the sole appellant:

STERN ET AL., APPELLEES, *v.* XYZ CORPORATION ET AL.; KENT, APPELLANT.

If ABC Law Firm is the sole appellant:

STERN ET AL., APPELLEES, *v.* XYZ CORPORATION ET AL.; ABC LAW FIRM, APPELLANT.

14.2. The "Cite-As Line."

In the formal case caption, the first defendant listed in the original pleading is always the first to appear after the "*v.*" In the cite-as line, the first defendant is the only name to appear after the "*v.*," even if that party has long ago disappeared from the litigation and has filed nothing in this court. Thus, for all of the examples in "**14.1. The Formal Case Caption**" above, the cite-as line would read:

HOW TO FORM THE CITE-AS LINE
[Cite as *Stern v. XYZ Corp.*, ___ Ohio St.3d ___, 2011-Ohio-___.]

The entire cite-as line appears in boldface, with the caption in italics.

Words are abbreviated in the cite-as line, but not in the formal case caption.

14.3. In the Matter of…

Always change *In the Matter of* to *In re,* in both the formal caption and the cite-as line.

14.4. Miscellaneous Caption Matters.

A. Appellees

An appellee is a party against whom an appeal is taken. To be an appellee, a party must have had at least part of the judgment below entered in his or her favor and must stand to lose it on appeal.

A winner below who is not made a party to an appeal by service is not a party and not an appellee.

Appellees are accounted for in the formal case caption even if they do not participate on appeal. A typical example is the workers' compensation claimant who lets the Industrial Commission do all the work of defending its order in the claimant's favor.

B. Cross-appeals

When a party has cross-appealed, follow the same rules above, except add the parties' cross-appeal status to the formal citation line.

HOW TO DO A FORMAL CAPTION WHEN THERE IS A CROSS-APPEAL
STERN, APPELLANT AND CROSS-APPELLEE, ET AL., *v.* XYZ CORPORATION ET AL., **APPELLEES AND CROSS-APPELLANTS.**

C. Original actions

When the case is an action originating in this court, the formal citation line will not include the parties' status.

HOW TO DO A FORMAL CAPTION FOR ORIGINAL ACTIONS

THE STATE EX REL. STERN *v.* INDUSTRIAL COMMISSION OF OHIO ET AL.

NOT

THE STATE EX REL. STERN, RELATOR, *v.* INDUSTRIAL COMMISSION OF OHIO ET AL., RESPONDENTS.

NOTE: In actions involving the extraordinary writs (mandamus, prohibition, procedendo, and quo warranto), the party bringing the action is the relator and the party against whom the action is brought is the respondent. The formal caption should begin with the phrase "The State ex rel."

D. Consolidated cases

When two or more cases have been consolidated for a single decision, each case has its own separate formal caption line, starting with the case with the lowest (oldest) Supreme Court docket number.

HOW TO DO A FORMAL CAPTION FOR CONSOLIDATED CASES

For instance, say that the following three cases have been consolidated for decision:

Case No. 2010-1201, State v. Rice
Case No. 2011-0140, State v. Hart
Case No. 2010-0803, State v. Hayes

The formal caption lines would read:

THE STATE OF OHIO, APPELLEE, *v.* HAYES, APPELLANT.

THE STATE OF OHIO, APPELLEE, *v.* RICE, APPELLANT.

THE STATE OF OHIO, APPELLANT, *v.* HART, APPELLEE.

The cite-as line, however, will contain only the first case caption:

[Cite as *State v. Hayes*, ___ Ohio St.3d ___, 2011-Ohio-___.]

E. References to juveniles

In any case in which a juvenile is a party, the caption and body of the opinion shall refer to the child by initials. Any published opinions issued by the court shall similarly refer to the juvenile by initials. To the extent that reference to another person is likely to reveal the identity of the juvenile, that person should also be identified by initials or by familial relationship.

In any case involving a minor victim of child abuse or a minor victim of a sex offense, any published opinions of the court shall refer to the minor victim by initials.

In all cases, judges shall not allow publication of a minor's identity.

SECTION FIFTEEN: HEADINGS

15.1. Use of Headings.

It is the opinion author's prerogative whether to divide an opinion into subparts with headings. Not all opinions will necessarily benefit from the use of headings. The reader of a short or single-issue opinion might find headings more intrusive than helpful. The specimen opinions included in Part III of the Writing Manual, Structure of a Judicial Opinion, provide examples of effective headings.

Use headings when they will enhance the reader's understanding of the opinion or facilitate the reader's ability to focus on a single issue or to cite a specific part of the opinion.

Headings allow the reader to more easily understand the flow of an opinion and to identify portions of interest. Accordingly, choose headings that clearly identify the content of the applicable material. Do not use numbers alone.

15.2. Form of Headings.

Numbered headings without descriptive text convey no meaning.

Whether numbers and letters should be used in addition to a descriptive heading (e.g., III. Laches) will depend on the complexity of the opinion. Generally, if the content of an opinion has more than two levels of division, the use of numbers and letters, in addition to text, should be considered.

Headings are not followed by periods. An exception exists for headings composed of combinations of a numeral and a word or phrase that are on the same line, e.g., IV. The Spousal Privilege, in which a period will follow the numeral only.

The sample opinions included in Part III, Structure of a Judicial Opinion, provide examples of the effective use of headings.

SECTION SIXTEEN: COMMONLY MISUSED WORDS AND PHRASES

The following list contains words and phrases that legal writers often confuse and misuse. In general, the list identifies concrete rules for legal usage. In some instances, however, where a particular use is debatable, but legal writing experts appear to have reached a consensus on a preferred use, the entry indicates that a particular use is preferred. The Reporter's Office generally will follow these preferred usages.

The primary sources for the definitions in the entries are *Merriam-Webster's Collegiate Dictionary* (11th Ed.2003) and *Webster's New International Dictionary* (1986). The primary sources for rules of usage are Garner, *A Dictionary of Modern Legal Usage* (2d Ed.1995), Garner, *The Elements of Legal Style* (2d Ed.2002), and Strunk & White, *The Elements of Style* (4th Ed.2000).

COMMONLY MISUSED WORDS AND PHRASES

1. **Above; above-cited; above-mentioned; above-quoted**, etc. In general, avoid these designations and use more specific references, e.g., the case or the court being referred to.

2. **Accord; accordance.** *In accord* means *in agreement*. For example, "Our holding is in accord with the holdings of other courts in Ohio." *In accordance* means *in conformity or compliance with*. For example, "The officer conducted her search in accordance with constitutional standards."

3. **Adduce; deduce; educe.** *Adduce* means *to offer as proof*. For example, "The state failed to adduce evidence of prior calculation and design." *Deduce* means *to infer*. For example, "The indictment was adequate for the defendant to deduce information necessary for his defense." *Educe* means *to draw out*. For example, "It was proper for trial counsel, on direct examination, to educe the defendant's complete account of what occurred."

4. **Affect; effect.** *Affect* as a verb means *to influence* or *act on*. For example, "Her attempts to affect the legislative process were unsuccessful." "The wound affected his ability to walk." *Effect* as a noun means *result*. For example, "The legislation had the desired effect." Used as a verb, *effect* means *to achieve or bring about*. For example, "The mediator sought to effect a settlement."

5. **Afterward; afterwards.** *Afterward* is preferred.

COMMONLY MISUSED WORDS AND PHRASES (CONT.)

6. **Alleged; ostensible; purported.** *Allege* means *to assert something as true without having yet proved its truth*; used as an adjective, *alleged* means *accused* or *claimed to be as asserted; supposed*. For example, "In her complaint, the plaintiff alleged that her employer owed her money; she identified her boss as the alleged perpetrator of the fraud." *Ostensible* means *apparent*, but suggests that appearance may not reflect reality. For example, "The attorney's ostensible reason for attending the conference was legal education." *Purported* means *supposed*, *assumed to be such, reputed*: "The purported author."

7. **Alternate; alternative**. When used as a noun, *alternate* means *a substitute* or *something that occurs or succeeds by turns.* When used as an adjective, *alternate* means *every second one* or *substitute*. For example, as to the latter meaning, "The defense presented alternate jury instructions." An *alternative* is a *choice*, usually one of two choices. When used as an adjective, *alternative* means *mutually exclusive*. For example, "Although the defendant claimed that she did not intend to shoot the victim, she argued that counsel should have presented the alternative theory that she shot the victim in self-defense." *Alternative* can also mean affording a choice, as in "The committee offered several alternative plans."

8. **Amicus brief**. The plural of *amicus brief* is *amicus briefs*, not *amici briefs.*

9. **Amicus curiae**. *Friend of the court*. The plural of *amicus curiae* is *amici curiae*.

10. **Appendices; appendixes**. Either spelling is acceptable as the plural of *appendix*.

11. **Approvingly cited.** Use *cited with approval*. For example, "This court has cited with approval a three-pronged test concerning warrantless entry in emergency situations."

12. **Around.** Use the more formal *about* or *approximately*.

13. **As; because; since.** *Because* is the preferred choice to indicate causation; *since* is also acceptable. For example, "Because [or Since] the trial court did not consider these issues, we decline to address them on appeal." To avoid confusion, do not use *as* to mean *because*.

COMMONLY MISUSED WORDS AND PHRASES (CONT.)

14. **As such.** Use *as such* to refer to an object or idea just expressed. For example, "The juror was a military officer and, as such, was a natural for the role of foreman." Do not use *as such* merely to connect sentences or phrases or as a substitute for *therefore*.

15. **Assure; ensure; insure.** *Assure* means *to convince another of something.* For example, "The defendant assured the victim that the basement was safe." *Ensure* means *to make sure or certain*. For example, "The will ensures her daughter's comfort for life." *Insure* means *to provide insurance.* For example, "He insured his home for more than it's worth."

16. **Attorney fees.** Use *attorney fees*, not *attorney's fees* or *attorneys fees*.

17. **Between; among**. *Between* indicates a one-to-one relationship, even if there are more than two objects at issue. For example, "The bonds between the three defendants supported a united front for the jury." *Among* indicates a collective or undefined relationship. For example, "The consensus among the three defendants was that they had been framed."

18. **Cite; cite to; citation**. *Cite* is a verb and, in most legal contexts, means *to refer to* or *offer as an example or authority*. Use *cite*, not *cite to*. For example, "Defendant cites *Miranda* as support for his arguments." *Citation* is a noun and is preferred over *cite*, where appropriate. For example, "Appellant offers a single citation in support of his theory."

19. **Clearly; obviously**. Avoid using *clearly* and *obviously* as mere intensives.

20. **Compose; comprise.** *Compose* means *to form or produce*. For example, "Six Ohio counties compose the Second District Court of Appeals." *Comprise* means *to include or contain*; therefore, the phrase *comprised of* is always wrong. For example, "The Second District Court of Appeals comprises [or is composed of] six counties."

21. **Convince; persuade**. *Convince* indicates a mental state. For example, "Defense counsel convinced the jury that his client was innocent." *Persuade* indicates a resulting action. For example, "Counsel persuaded the jury to return a defense verdict."

COMMONLY MISUSED WORDS AND PHRASES (CONT.)

22. **Decision; judgment; opinion**. Judges and courts make and issue *decisions* and *judgments*. They write *opinions* to justify *decisions* and *judgments*. For example, "The trial court's opinion fails to explain its decision granting summary judgment."

23. **Finding; holding**. A court makes *findings* on questions of fact and *holdings* (or conclusions) on questions of law. For example, "Because competent, credible evidence supports the trial court's findings, we hold that appellant was entitled to judgment as a matter of law."

24. **Historic; historical**. *Historic* means *famous* or *important in history*. For example, "The opening of the new Supreme Court building was a historic occasion." *Historical* means *of or relating to history*. For example, "The trial court denied plaintiff's request to submit historical data concerning other jury awards."

25. **Hobson's choice**. A *Hobson's choice* is *an apparently free choice that offers no real alternative.* Do not use it to refer to a difficult choice.

26. **Hopefully**. *Hopefully* means *in a hopeful manner*. Do not use it to mean *it is hoped*.

27. **Identical with; identical to**. Both are correct.

28. **Impact**. Use *impact* only as a noun. For example, "The impact of the defendants' actions was widespread throughout the community." Rather than using *impact* as a verb, use *affect* or, as appropriate, *touch, sway,* or *influence.* For example, "The defendants' actions affected the community."

29. **Imply; infer**. *Imply* means *to indicate or express indirectly*. For example, "This language implies that a court may dismiss the claim if the conditions are met." *Infer* means *to arrive at a conclusion from facts or premises.* For example, "We can infer from the applicant's failure to disclose three prior terminations that she intended to deceive the review board." Speakers and writers imply; readers infer.

30. **Irregardless**. Use *irrespective* or *regardless*.

31. **Issue of whether.** Use *issue whether*. For example, "This appeal presents the issue whether the trial court abused its discretion by overruling plaintiff's objection."

COMMONLY MISUSED WORDS AND PHRASES (CONT.)

32. **Its; it's**. *Its* is the possessive form of *it*. For example, "A court speaks only through its journal." *It's* is the contraction of *it is* or *it has*.

33. **Method; methodology**. *Method* means *a process for attaining something.* For example, "The Supreme Court has clarified the method we must use to assign responsibility in multiple-employer situations." *Methodology* means *the study of methods*.

34. **Must; shall; may**. *Must* and *shall* mean *is required to*. For example, "All parties must follow the Rules of Civil Procedure." "The plaintiff shall serve the defendant within 30 days." *May* means *is permitted to*. For example, "The plaintiff may serve the defendant personally."

35. **Pleaded; pled**. *Pleaded* and *pled* are both acceptable, but be consistent.

36. **Posit**. *Posit* means *to state as a premise; to postulate*. For example, "The prosecutor's theory of the case posited a common motive for the crimes." *Posit* is not synonymous with *present, argue,* or *state*.

37. **Practical; practicable**. *Practical* means *useful* or *nontheoretical*. For example, "The trial court imposed practical procedures for concluding discovery." *Practicable* means *feasible*. For example, "The company challenged the agency's assertion that the pollution-control guidelines were practicable."

38. **Prescribe; proscribe**. *Prescribe* means *to dictate*. For example, "Through this statute, the General Assembly prescribed a strict method for determining whether the actions were lawful." *Proscribe* means *to forbid.* For example, "Through this statute, the General Assembly proscribed this conduct altogether."

39. **Rebut; refute.** *Rebut* means *to contradict*. For example, "The defendant rebutted the witness's testimony by presenting his own witness." *Refute* means *to prove wrong*. For example, "The videotape image of the defendant refuted his claim that he had never been there."

40. **Refer; reference.** In legal contexts, *refer* typically means *to direct attention to.* For example, "He referred to his relationship with the co-defendant only in passing." *Refer* is not interchangeable with *reference,* which, used as a verb, means *to supply with references*. Do not use *reference* to mean *cite, mention,* or *refer to*.

COMMONLY MISUSED WORDS AND PHRASES (CONT.)

41. **Remand; remand back.** Use *remand* alone. For example, "We remand this case to the trial court for a new hearing." The issuance of a writ of mandamus to an agency does not constitute a remand to the agency.

42. **Respective.** *Respective* means *separate* or *particular*. It is often an unnecessary adjective and may be deleted. For example, "The parties argued their positions," not "their respective positions."

43. **Said; the said**. Avoid referring to an object, person, or idea as *the said* object, person, or idea. Use more specific references, such as *the, that,* or *this.*

44. **Saving clause; savings clause**. Use *saving clause,* not *savings clause*. For example, "Both federal acts contain broad saving clauses that preserve rights and remedies existing outside the securities arena."

45. **Scenario**. *Scenario* refers to imagined events. It is not synonymous with *situation*.

46. **Survival action; survivorship**. An estate pursues a *survival action* to recover for the decedent's pain and suffering before death and for other associated losses. *Survivorship* is a right that arises by virtue of a person having survived another person with a joint interest in property.

47. **That; which**. Use *that* to introduce an adjective clause containing essential information about the preceding noun, i.e., a clause that cannot be eliminated without changing the meaning of the sentence. For example, "A business that violates environmental laws should be punished." Use *which* to introduce clauses containing supplemental information, i.e., clauses that are set off by commas and could be eliminated without changing the meaning of the sentence. For example, "The business, which violated environmental laws, should be punished."

48. **Tortious; tortuous; torturous**. *Tortious* means *involving a tort*. For example, "Plaintiffs complained about defendants' tortious conduct." *Tortuous* means *marked by repeated twists or turns.* For example, "The court found that defendant's tortuous explanation of his whereabouts lacked credibility." *Torturous* means *causing torture.*

49. **Toward; towards**. *Toward* is preferred.

50. **Upon**. Generally, use *on* instead.

COMMONLY MISUSED WORDS AND PHRASES (CONT.)

51. **Verbal; oral**. *Verbal* refers broadly to words, written or spoken: "The student's essay amply demonstrated her verbal skills." *Oral* is narrower and means *spoken*. For example, "The parties had an oral agreement to settle the case."

52. **Verbiage**. *Verbiage* means *an excess of words with little value*.

53. **Whether; whether or not**. Use *whether* alone. For example, "The trial court had discretion to determine whether the defendant was telling the truth." An exception applies when the *whether* clause is an adverb. For example, "The judge had decided in advance to disbelieve the defendant, whether or not the defendant was telling the truth."

PART III. STRUCTURE OF A JUDICIAL OPINION

A Guide for the Writer

INTRODUCTION TO STRUCTURE OF A JUDICIAL OPINION

The Structure of a Judicial Opinion is offered as a guide to organizing a straightforward judicial opinion. First, it addresses the subject of authorial discretion (Section Seventeen). Next, it sets forth the basic components and their subcomponents, arranged in the traditional sequence (Section Eighteen). It then presents three examples of fictitious Supreme Court opinions, two civil and one criminal, whose structure follows the outline (Section Nineteen). All three cases are arranged as they would appear in the Ohio Official Reports, except that marginal notes have been added to identify outline elements and explain certain points. Section Twenty discusses dispositional language, with examples of various dispositions. Finally, Section Twenty-One considers the topic of separate opinions.

There are many ways to write a good judicial opinion. The guide is meant to provide a basic model that can be easily followed and adapted for a variety of cases.

SECTION SEVENTEEN: AUTHORIAL DISCRETION

Organization of an opinion is solely a matter for the author. The factors listed in the sample guide may be useful, but they are not mandatory. The author's own outline of facts, analysis, and conclusion is a good starting point, with further divisions added, if desired, as the opinion is fleshed out.

However, if you have only one section or subsection, do not use numbers or letters. Thus, for example, a section labeled "I. Defamation" should not have a subsection labeled "A. Communication to Third Party" unless there is also a subsection "B."

SECTION EIGHTEEN: OUTLINE OF A JUDICIAL OPINION

The following is offered as guide to arranging the elements of a traditional judicial opinion of the Supreme Court.

OUTLINE OF A JUDICIAL OPINION

I. ***Introduction***

- Identifies the main issue of the case;
- Summarizes the facts;
- States the court's conclusion.

A. ***Statement of Facts***

1. Describes relevant and material events that prompted filing of civil lawsuit or criminal charges, i.e., relevant incidents before any court or agency involvement;
2. Identifies parties and their status (appellant, appellee).

B. ***Procedural History***

1. Establishes procedural posture:
   a. In civil case, was case decided on summary judgment? On Civ.R. 12(B)(6) dismissal? On judgment after full trial?
   b. In criminal case, was case decided on plea of guilty or no contest? On granting of motion to suppress? On judgment after full trial?
2. Identifies rationale for trial court's decision, if warranted;
3. States who appealed to court of appeals and why;
4. Describes how the court of appeals decided the appeal.

II. ***Legal Analysis***

A. Articulates in precise terms the question presented by the appeal;

B. Identifies which standard of review applies and why;

C. Identifies sources of legal principles (constitutions, statutes, rules, case law, etc.)

1. Applies legal principles to facts;
2. Articulates rationale and, when appropriate:
   a. Explains parties' arguments;
   b. Settles conflicting cases;
   c. Distinguishes precedent;
   d. If reversing, identifies error and explains flaw.

OUTLINE OF A JUDICIAL OPINION (CONT.)

III. ***Conclusion***

A. Summarizes basis of decision

B. States disposition

1. Explains what, if anything, happens next;
2. If remand is ordered, specifies where.

SECTION NINETEEN: EXAMPLES OF OPINIONS CONSTRUCTED ACCORDING TO THE OUTLINE

19.1. Overview.

The following section consists of three Supreme Court opinions, two civil and one criminal. All three opinions, and the authorities cited in them, are completely invented, and all follow the outline contained in Section Eighteen. They are presented as they would appear in the Ohio Official Reports, with certain additional features.

The opinions include notes in both margins. Notes in the right margin point out where elements from the outline appear, and notes in the left margin offer explanations regarding the format of the opinion.

19.2. Components of an Opinion.

A. Headnotes

The headnotes are the italicized phrases under the caption. They provide key words and phrases describing the general subject matter of the case (e.g., "Taxation"), the subtopics (e.g., "Real property"), the statute, if any, being interpreted, and the holding. Headnotes are for research purposes only. They are written by the Supreme Court Reporter's Office, not by the court, and do not constitute part of the opinion. They are to be distinguished from the more extensive headnotes written by West, which appear on Westlaw and in the West regional reporters but not in the Ohio Official Reports, and from those written by Lexis, which appear only on Lexis.

B. Syllabus

The role of the syllabus in Ohio has changed. The old rule that the syllabus, and only the syllabus, contains the law of the case has been discarded. The entire text of the opinion contains the law; text from the body of the case, including footnotes, may be cited as authority. The syllabus shall be prepared by the author of the opinion and must be approved by a majority of the court. All syllabus paragraphs (minus the parentheticals, if any) shall appear verbatim in the body of the opinion itself.

Currently, the purpose of the syllabus is to summarize the legal principle set forth in the opinion. A parenthetical explanatory note may be added at the end of a syllabus paragraph that cites an affected case or statute, with a word or phrase that explains how that case or statute is affected by the principle in the syllabus. Example: R.C. 4123.52 is not applicable to occupational-disease claims that require total disability or death to be compensable. (*State ex rel. Timken Roller Bearing Co. v. Indus. Comm.*, 136 Ohio St. 148, 24 N.E.2d 448 (1939), modified.)

Example 1—Civil Case, Single Issue

This line is referred to as the "cite-as line."

DOE, APPELLANT, *v.* XYZ AUTO SALES, APPELLEE.

[Cite as *Doe v. XYZ Auto Sales*, 000 Ohio St.3d 444, 2009-Ohio-0000.]

These italicized headnotes are written by the Supreme Court Reporter's Office, not by the court.

Negligence—Premises liability—Duty to business invitee—Ice and snow—No duty owed to business invitee for injury from fall on ice and snow when conditions on premises are substantially similar to those prevailing generally in area.

(No. 2008-0000—Submitted July 1, 2009—Decided October 10, 2009.)

Unlike in citations, this line uses county only, not district.

APPEAL from the Court of Appeals for No-Name County, No. 00000, 2008-Ohio-0000.

A per curiam opinion generally does not have a syllabus.

Per Curiam.

Identifies the main issue and summarizes the facts.

Note the use of paragraph numbers. They are added by the Reporter's Office before the opinion is released.

{¶ 1} The issue presented in this appeal is whether an owner of property is liable to a business invitee who is injured on the property when he slips on a patch of ice covered by snow. We conclude that the owner is not liable when snow-covered ice prevails generally in the area, because the owner may assume that the business invitee will apprehend the danger and act to ensure his own safety.

States the court's conclusion.

Use of headings is discretionary, but often helpful, especially in a lengthy case with multiple issues.

Facts and Procedural History

Identifies parties and their status.

{¶ 2} On December 12, 2002, plaintiff-appellant, John Doe, visited the business premises of defendant-appellee, XYZ Auto Sales, to buy a car. Although the car lot had been plowed the day before, an overnight blizzard caused a fresh accumulation of ice and snow. As Doe was crossing the lot, he slipped on a snow-covered icy spot and fell, breaking his wrist.

Describes relevant events that prompted filing of lawsuit, i.e., relevant incidents before any court or agency involvement.

Choose one moniker for a party—here, either "Doe" or "appellant"—and stick with it.

{¶ 3} Doe sued XYZ, alleging negligent failure to maintain the lot in a reasonably safe condition. The trial court granted XYZ's motion for summary judgment. The court reasoned that when the owner or occupier of business premises is not shown to have had notice, actual or implied, that the natural accumulation of snow and ice on his premises was substantially more dangerous to his business invitees than they could reasonably have expected from their knowledge of conditions prevailing generally in the area, the owner is not liable for any injury resulting from snow and ice.

Establishes procedural posture—case decided on summary judgment.

Identifies rationale for trial court's decision.

{¶ 4} Doe appealed, alleging that the trial court had failed to consider that XYZ had superior knowledge of a hidden danger because the ice that caused his fall was under the snow and not observable by Doe. Thus, he claimed, XYZ had no right to assume that visitors to its premises would recognize the danger and act to ensure their own safety.

States who appealed and why.

{¶ 5} The court of appeals affirmed, holding that even if the ice underneath the snow was hidden, Doe presented no evidence that this danger substantially exceeded the danger posed by conditions generally prevailing in the area.

Describes how the court of appeals decided the appeal.

Question Presented

{¶ 6} We are asked to define the circumstances, if any, in which a business owner may be liable for an injury to a business invitee caused by a natural accumulation of snow and ice on the premises.

Articulates in precise terms the question presented by the appeal.

Analysis

{¶ 7} Because this matter was decided by summary judgment, we review this appeal de novo, governed by the standard set forth in Civ.R. 56. *Seeley v. Gallagher*, 000 Ohio St.3d 555, 556, 000 N.E.2d 444 (2000).

Identifies which standard of review applies and why.

{¶ 8} In Ohio, an owner or occupier owes no duty to keep the business premises free from natural accumulations of snow and ice. *Garcia v. Acme Co.*, 000 Ohio St.3d 888, 2004-Ohio-0000, 000 N.E.2d 777, ¶ 9; *Lacey v. ABC Corp.*, 000 Ohio St.3d 333, 335, 000 N.E.2d 222 (2001). This court has held that the dangers posed by snow and ice are obvious and that "the owner or occupier has a right to assume that his visitors will appreciate the risk and take action to protect themselves accordingly." *Spears v. Englewood*, 000 Ohio St.3d 444, 447, 000 N.E.2d 222 (1989).

Sets forth legal principles and identifies sources of legal principles.

{¶ 9} Doe claims that the general rule does not apply here, because the ice that caused his fall was concealed under a covering of snow, and the danger was therefore not obvious. We decline to recognize such an exception under the facts of this case. A plaintiff seeking damages from a slip and fall on snow or ice has the burden of showing that the conditions that caused the injury were "substantially more dangerous than those prevailing generally." *Spears* at 445. Doe has made no such showing. In fact, he admitted that icy patches concealed by snow were common that day because the melting snow had refrozen during the snowfall the previous night.

Explains parties' arguments.

Applies legal principles to facts.

Conclusion

{¶ 10} Because XYZ has demonstrated that no genuine issue of fact exists as to an essential element of Doe's claim, XYZ is entitled to judgment as a matter of law. The trial court therefore did not err in entering summary judgment for XYZ.

Articulates rationale.

{¶ 11} Accordingly, the judgment of the court of appeals is affirmed.

Sets forth the disposition.

Judgment affirmed.

FORD, C.J., and NIXON, REAGAN, CARTER, BUSH, CLINTON, and JOHNSON, JJ., concur.

John Doe, pro se.

Abraham Lincoln, for appellee.

The plaintiff's attorneys are always listed first, regardless of who is the appellant in this court. Only those attorneys whose names appear on the merit briefs or who argued at oral argument are listed.

Example 2—Criminal Case, Two Issues

THE STATE OF OHIO, APPELLEE AND CROSS-APPELLANT, *v.*

DOE, APPELLANT AND CROSS-APPELLEE.

[Cite as *State v. Doe,* 000 Ohio St.3d 222, 2009-Ohio-0000.]

Criminal law—Felonious assault—Definition of "serious physical harm"—R.C. 2903.11(A)(1)—"Peace officer" specification in R.C. 2903.11(D)(1)(a)—Defendant may be convicted of specification if officer is off duty and out of uniform at time of assault.

(No. 2009-0000—Submitted March 15, 2009—Decided June 1, 2009.)

APPEAL and CROSS-APPEAL from the Court of Appeals for Hypothetical County, No. 0000, 2008-Ohio-0000.

See note regarding the role of the syllabus, page 131.

SYLLABUS OF THE COURT

A defendant who assaults a police officer may be convicted of the "peace officer" specification in R.C. 2903.11(D)(1)(a) even if the officer was off duty and out of uniform at the time of the assault.

COOLIDGE, J.

Division of the opinion into numbered parts is discretionary, but it can be helpful, especially in lengthy cases. Do not use numbers without descriptive headings.

I. Introduction

{¶ 1} John Doe was convicted by a jury of one count of felonious assault under R.C. 2903.11(A)(1), with the R.C. 2903.11(D)(1)(a) specification that his victim was a police officer. This case presents two issues: (1) Has a defendant who strikes another, breaking his nose, caused "serious physical harm" within the meaning of R.C. 2903.11(A)(1)? and (2) Can a defendant be convicted of the R.C. 2903.11(D)(1)(a) "peace officer" specification when the victim was off duty at the time of the assault? We conclude that a broken nose qualifies as serious physical harm and that a defendant who assaults a police officer may be convicted of the "peace officer" specification even if the officer was off duty and out of uniform at the time of the assault.

Summarizes the facts and states the court's conclusion.

II. The Incident and Its Aftermath

{¶ 2} On October 19, 2005, defendant-appellant and cross-appellee John Doe attended a high school football game in Anytown, Ohio. In the parking lot after the game, Doe became belligerent and caused a disturbance. Joe Smith, an off-duty police officer hired by the school to provide security, approached Doe and ordered him to desist. Doe cursed Smith and stepped toward him menacingly. Smith grasped Doe's arm. Doe shook him off and punched Smith in the face, breaking his nose.

Identifies parties and their status (in a criminal case, the defendant is often the only one identified, as the plaintiff is almost always the state).

Describes relevant events that prompted the filing of criminal charges, i.e., relevant incidents before any court or agency involvement.

{¶ 3} Doe was arrested and charged with one count of felonious assault under R.C. 2903.11(A)(1), along with a specification of assault on a peace officer under R.C. 2903.11(D)(1)(a), which enhanced the penalty. A jury found him guilty, and the trial court sentenced him accordingly.

Establishes procedural posture—defendant convicted after jury trial.

{¶ 4} Doe appealed, arguing that the harm Smith suffered was not "serious" as required by R.C. 2903.11(A)(1) and that the specification conviction was erroneous because Smith had been off duty. The court upheld the assault conviction, ruling that Smith's injury constituted serious physical harm. But the court reversed Doe's conviction under the specification and remanded for resentencing, holding that Doe could not be found guilty of the peace-officer specification, because Smith was not engaged in his official duties at the time of the assault.

States who appealed to the court of appeals and why.

Describes how the court of appeals decided the appeal.

{¶ 5} Doe appealed the affirmance of his conviction, and the state cross-appealed the judgment reversing the specification conviction.

III. Doe's Appeal

{¶ 6} Doe asks us to reverse the appellate court's ruling that the injury in this case can be termed "serious physical harm" as required for a conviction under R.C. 2903.11(A)(1). He contends that the evidence was insufficient to show that Smith's injury resulted in substantial suffering.

Articulates in precise terms the question presented by the appeal.

{¶ 7} In reviewing the sufficiency of the evidence supporting an essential element of a criminal offense, a court must determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the element proven beyond a reasonable doubt. *State v. Kim*, 000 Ohio St.3d 6, 2005-Ohio-0000, 000 N.E.2d 1, ¶ 3.

Identifies which standard of review applies and why.

{¶ 8} R.C. 2903.11(A), felonious assault, states:

{¶ 9} "No person shall knowingly * * *:

{¶ 10} "(1) Cause serious physical harm to another * * *."

{¶ 11} In this case, the state argued that Smith's injury was serious within the meaning of R.C. 2901.01(A)(5)(c), which defines "serious physical harm" as "[a]ny physical harm that involves acute pain of such duration as to result in substantial suffering." The Legislative Service Commission Final Analysis of Am.Sub.S.B. No. 000, the bill that enacted the current version of R.C. 2901.01(A)(5), states that pain that is "unbearable or nearly so, although short-lived," constitutes "serious physical harm" under the above definition.

Sets forth legal principles.

{¶ 12} Officer Smith testified that although he was treated at the scene by medics and not transported to the emergency room, his injury caused him considerable suffering. He testified that the pain on impact was blinding, that the examination and packing of his nose by the medic were so "incredibly" painful that he nearly passed out, that sleeping was difficult for several days because of the pain, and that he experienced frequent headaches for two weeks after the blow. He took pain medication several times daily, missed two days of work, and was assigned to desk duty for a week.

{¶ 13} Viewed in the light most favorable to the state, this evidence demonstrated beyond a reasonable doubt that Smith had suffered "serious physical harm" in the form of acute pain that is "unbearable, or nearly so." In the context of assault, courts have held that similarly painful but noncatastrophic injuries can constitute serious physical harm. *See, e.g., State v. Morretti*, 2d Dist. Montgomery No. 0000, 2007-Ohio-0000 (facial bruising); *State v. Beadle*, 000 Ohio App.3d 342, 2008-Ohio-0000, 888 N.E.2d 40 (4th Dist.) (slash in scalp requiring six stitches).

Applies legal principles to facts, identifies sources of principles, and articulates rationale.

{¶ 14} In arguing that Smith's injury was not serious, Doe points out that no emergency-room visit was required and no major function, such as walking or thinking, was affected. These facts do not avail Doe. We have found no authority for the proposition that a victim who is treated outside a hospital or who retains his ability to walk and think cannot have suffered serious harm. The relevant definition speaks in terms of pain, not incapacity or need for complex treatment. *See Morretti* at ¶ 6; *Beadle* at ¶ 11.

Explains parties' arguments.

{¶ 15} We conclude that Smith's broken nose constitutes serious physical harm. Therefore, the court of appeals did not err in affirming Doe's conviction of felonious assault.

IV. The State's Cross-Appeal

{¶ 16} In its cross-appeal, the state of Ohio asks us to reverse the appellate court's holding that the peace-officer specification set forth in R.C. 2903.11(D)(1)(a) requires a showing that the

Articulates in precise terms the question presented by the cross-appeal.

officer was engaged in his official duties at the time of the felonious assault.

{¶ 17} Resolution of this question requires nothing more than a simple review of the statute. The specification at issue in this case provides that if the victim of the assault is a peace officer, felonious assault is a felony of the first degree. R.C. 2903.11(D)(1)(a). The specification incorporates by reference the definition of "peace officer" in R.C. 2935.01. Under that definition, "peace officer" includes a "member of the organized police department of any municipal corporation." R.C. 2935.01(B).

Sets forth legal principles and identifies sources of principles (constitutions, statutes, case law, etc.).

{¶ 18} Doe contends that at the time of the offense, Smith was not a peace officer, as he was not engaged in his official duties. The court of appeals agreed with Doe, reversed the specification conviction, and remanded for resentencing.

Explains parties' arguments.

{¶ 19} Smith is a police officer employed by the city of Anytown. Although he was off duty and out of uniform when he was attacked, neither the definition of "peace officer" nor the specification itself requires that the officer be engaged in his official duties or in uniform for the specification to apply. *State v. Shaw*, 000 Ohio App.3d 999, 2008-Ohio-0000, 000 N.E.2d 999, ¶ 19 (3d Dist.).

Applies legal principles to facts and articulates rationale.

{¶ 20} Our conclusion is buttressed by the fact that a similar specification in another assault statute does expressly require that the officer be engaged in his official duties at the time of the assault. *See* R.C. 2903.13(C)(3) (specification for simple assault applies if offense occurs while officer is "in the performance of [his] official duties"). Had the legislature intended that factor to be an element of the specification at issue, it could have included that language. It did not, and we will not add it.

Further articulates rationale.

{¶ 21} The court of appeals erred in reversing Doe's conviction of the "peace officer" specification under R.C. 2903.11(D)(1)(a). The evidence established that Smith was a police officer at the time of the assault. No more is required.

Identifies error and explains flaw.

V. Conclusion

{¶ 22} Accordingly, the judgment of the court of appeals is affirmed in part and reversed in part. That portion of the judgment upholding Doe's conviction of felonious assault is affirmed, while the portion reversing his conviction under R.C. 2903.11(D)(1)(a) and remanding for resentencing is reversed. The judgment of the trial court is reinstated.

States disposition, explains which portion of the judgment is affirmed and which is reversed. See pages 149-151 for examples of dispositions.

Judgment affirmed in part
and reversed in part.

EISENHOWER, C.J., and TAFT, ROOSEVELT, HARDING, TRUMAN, and KENNEDY, JJ., concur.

CALVIN COOLIDGE, J., retired, of the Umpteenth Appellate District, sitting for HOOVER, J.

Grover Cleveland, Essex County Prosecuting Attorney, and Dolly Madison, Assistant Prosecuting Attorney, for appellee and cross-appellant.

Ulysses S. Grant, for appellant and cross-appellee.

Example 3—Civil Case, Multiple Issues, Divided by Headings

DOE ET AL., APPELLEES, *v.* FICTITIOUS HOSPITAL; ROE ET AL., APPELLANTS.

The defendant whose name appeared first in the original complaint is always listed first, even if that defendant is not appealing or was dismissed early on. If that first-listed defendant is not a party to the appeal in the Supreme Court, the "formal-caption line" names the next-listed party (here, Roe), but the cite-as line does not.

[Cite as *Doe v. Fictitious Hosp.*, 000 Ohio St.3d 999, 2009-Ohio-0000.]

Medical malpractice—Expert testimony—Physicians not qualified to testify on standard of care for licensed registered nurses—Expert testimony not required to establish recklessness of physician's conduct in caring for patient—Award not excessive—"Day in the life" video of comatose patient not unduly prejudicial.

(No. 2009-0000—Submitted April 31, 2009—Decided November 31, 2009.)

APPEAL from the Court of Appeals for Nameless County, No. 09-CA-0000, 2009-Ohio-0000.

SYLLABUS OF THE COURT

Physicians are not qualified to offer an expert opinion on the standard of care for nurses or on whether a nurse has deviated from that standard.

FILLMORE, J.

This opinion is divided into headings and subheadings, following the guide on page 113.

I. INTRODUCTION

A. Facts

{¶ 1} On April 4, 2002, Jane Doe, age 20, arrived at the emergency room of Fictitious Hospital in Nowhere, Ohio, complaining of a high fever, disorientation, and vomiting. Within a few hours, due to a tragic series of errors by hospital personnel, Jane lapsed into a persistent vegetative state, from which she is not expected to emerge.

{¶ 2} On the medical-history form she was handed in the emergency room, Jane reported that she was on medication for depression. Upon examining her, an ER physician admitted her for hydration and observation.

{¶ 3} Once admitted, Jane was evaluated by Dr. Richard Roe. He could not pinpoint a diagnosis, but he prescribed ibuprofen to reduce the fever.

{¶ 4} At 4:30 p.m., Roe left Jane in the care of nurses. An hour later, when she became agitated and began trying to pull out her IV tubes, nurses tried to contact Roe. They were unable to reach him, however, because contrary to hospital policy, he had turned off his beeper and cell phone and left the building. Nurses then called resident physician Francis Foe, who was on duty. Without examining her personally and without inquiring what medication Jane was taking, Dr. Foe prescribed a sedative and ordered that Jane be restrained. By 6:10 p.m., Jane was asleep, and for reasons unknown, nurses failed to check on her for the next several hours. At 10:32 p.m., a nurse checking on Jane was unable to wake her. Jane had lapsed into a persistent vegetative state and will most likely never emerge.

{¶ 5} Jane's vegetative state was caused by the interaction of her depression medication and the sedative administered to control her agitation, an interaction that is known to cause severe harm or even death. It later emerged that Dr. Roe was unavailable because he was drinking in a nearby bar.

B. Procedure

{¶ 6} Appellees John and Jean Doe, Jane's parents, brought this action against appellants, Drs. Roe and Foe and several nurses, alleging negligence and recklessness in the care and supervision of their daughter and seeking compensatory and punitive damages. The hospital settled and was dismissed.

{¶ 7} A jury trial commenced in July 2005. The jury found for the Does and awarded them $10,288,667 in compensatory damages and $20 million in punitive damages, the latter against Drs. Roe and Foe only, allocating 25 percent to Foe and 75 percent to Roe. The court of appeals affirmed.

This heading will cover the portion of the opinion in which the court considers the arguments and formulates its holdings.

II. ANALYSIS

A. Physician Testimony on Standard of Care in Nursing Profession

The several issues in the Analysis portion of the opinion may be separated into subheadings and sub-subheadings. Helpfulness to the reader is the touchstone.

{¶ 8} Appellants argue that the trial court erred in refusing to allow their physician-expert to testify as an expert regarding the standard of care expected of a registered nurse. This is a question of first impression in this state.

{¶ 9} To show that the nurses attending to Jane Doe did not violate the applicable standard of care in failing to inform Dr. Foe of Jane's antidepressant medication and in not checking on

her for over four hours, appellants proffered the testimony of John Q. Public, M.D., a specialist in internal medicine at Fictitious, who taught nurses at the hospital. He also consulted with the nursing staff on a guide to nursing practices and protocols. The trial court refused to permit Dr. Public to testify on the grounds that he was unqualified to offer an expert opinion on the applicable standard of care for a registered nurse.

{¶ 10} "The admissibility of expert testimony is a matter committed to the discretion of the trial court, and the court's ruling will not be overturned absent an abuse of that discretion." *In re Carmody*, 000 Ohio St.3d 111, 2004-Ohio-0000, 000 N.E.2d 4433, ¶ 11.

{¶ 11} It is a general rule that in order to testify as an expert on the standard of care in a given school of medicine, the witness must be licensed in that field. *Bolt v. Surgeons, Inc*., 000 Ohio St.3d 800, 812, 000 N.E.2d 1235 (1985). Once that licensure has been established, the trial court has discretion to determine whether the witness is qualified to testify as an expert regarding the standard of care. *Brockmeier v. Fedders*, 000 Ohio St.3d 677, 2008-Ohio-0000, 000 N.E.2d 1311, ¶ 25.

{¶ 12} The rationale behind this licensure requirement is that

This paragraph shows the formatting of a block quote.

> different schools of medicine have varying procedures, practices, and treatments, and it would be unfair for a practitioner of one school to judge the care and skill of a practitioner of another. *Bolt* at 813. Thus, a specialist in radiology cannot testify on the standard of care for a general surgeon, nor can an orthopedist testify on the standard for a neurologist.

Lopez v. Pediatric Ctr., 000 Ohio St.3d 929, 2009-Ohio-0000, 000 N.E.2d 933, ¶ 33.

{¶ 13} These are well-settled principles. But no Ohio court has ever addressed the issue presented here: whether a physician of any stripe may testify as an expert on the standard of care applicable to a nurse. We therefore look to our sister states for guidance.

{¶ 14} The clear majority of states hold that physicians are not qualified to offer an expert opinion on the standard of care for nurses or on whether a nurse has deviated from that standard. *Bristow v. Scanlon*, 000 Cal.Rptr.3d 1111, 1114, 000 P.3d 2222 (2002) (citing cases); *Verhoff v. Neurological Assoc.*, 000 N.Y.S.3d 12, 15-16, 000 N.E.2d 3333 (2006) (citing cases); Jones, *Physician, Judge Thyself: The Growing Trend Toward Limiting Physician Opinion Testimony*, 000 S.W.J.Med.Litig. 40, 66-71 (1999). Physicians are not licensed in nursing. To allow

them to opine on the standard of care would lead to the same muddling of methodologies and principles as allowing a pediatrician to judge a sleep specialist. *Kress v. Horning*, 000 Mass. 222, 230, 000 N.E.2d 1099 (2007).

{¶ 15} Appellants argue that Dr. Public is nevertheless qualified to testify. They point to his years of experience teaching nurses at Fictitious, his work on a guide on nursing practices and protocol, and his extensive experience observing and working with nurses throughout his career.

{¶ 16} We have no doubt that Dr. Public is familiar with the methods, procedures, and practices of a registered nurse. Nonetheless, the fact remains that Dr. Public is not a licensed registered nurse.

> Relevant licensure is an indispensable requirement for qualification as an expert when a physician seeks to testify on the standard of care in a medical field. The physician must be a licensed practitioner in the same field. Those states that have addressed the issue have uniformly declined to deviate from this rule when a physician is offered as an expert on nursing standards. *Bristow; Kress.*

Hanna v. Orthopedic Ctr., 000 Ill.2d 444, 449, 000 N.E.2d 2233 (2001).

{¶ 17} Therefore, the trial court did not abuse its discretion in granting the Does' motion to disqualify Dr. Public as an expert on the standards of care applicable to the nursing profession.

B. Damages

1. Compensatory Damages

This example illustrates the usefulness of subheadings. The overarching subject is damages. The analysis is divided into compensatory damages and punitive damages, and punitive damages is further divided into sub-subheadings to discuss the two separate issues on that topic.

{¶ 18} Appellants claim that the trial court erred in denying their motion for remittitur, as the award of compensatory damages was excessive. We review the trial court's order denying remittitur for an abuse of discretion. *Penn v. Roe Corp.*, 000 Ohio St.2d 928, 000 N.E.2d 555 (1976), syllabus. We will not disturb a jury award for excessiveness unless it is grossly disproportionate to the injury suffered, so large as to "shock the conscience," or so exaggerated as to strongly indicate passion, corruption, or other improper motive. *Id.* at 932.

{¶ 19} The compensatory award of $10,288,667 represented $9,288,667 in economic damages (past and future medical expenses and future lost wages) and the statutory limit of $1,000,000 in noneconomic damages.

{¶ 20} Appellants cite similar cases in which large compensatory awards were overturned as excessive. *See, e.g., Smoot v. Cty. Hosp.*, 000 S.E.2d 666 (Ala.2000); *Younger v. Med. Ctr.*, 000 Wash.App.2d 444, 000 P.3d 1000 (2008). But it is not enough that the award is very large, that it is larger than awards made in similar cases, or that similar awards have been overturned. Awards must be judged by the unique circumstances of each case. *Penn*, 000 Ohio St.2d at 932, 000 N.E.2d 555.

{¶ 21} Here we have a very young woman, active and healthy, who at the time of her injury was studying for a degree in urban design. Expert testimony was heard on the costs of caring for Jane for her lifetime and on the income she would have made had she not suffered this catastrophic injury. Further evidence established that she will never recover her mental and physical faculties, that she will survive in her present state for as long as five decades, and that she will always require extraordinary care in a highly specialized environment. Appellants have not indicated any hint in the record that the award was motivated by bias, passion, or other improper motive.

{¶ 22} In view of the evidence adduced, the lack of record evidence of bias or other impropriety, and the trial court's superior position for judging whether the award was warranted under the circumstances, we affirm.

2. Punitive Damages

All headings and subheadings are given descriptive titles.

a. Recklessness as a basis for punitive damages

{¶ 23} Appellants next argue that the Does failed to prove that the conduct of Drs. Roe and Foe was reckless or wanton, which was the basis for the award of punitive damages in this case.

{¶ 24} When reviewing the sufficiency of the evidence in a jury trial, we apply a highly deferential standard of review and will sustain the jury's finding if there is any credible evidence to support it. *Salter v. Ray*, 000 Ohio St.2d 999, 000 N.E.2d 777 (1990), paragraph four of the syllabus. In our review, we are mindful that recklessness is defined as "the failure to observe even slight care; carelessness of such a degree as to show utter indifference to the consequences that may ensue." *Osgood v. Lively*, 000 Ohio St.3d 333, 2003-Ohio-0000, 000 N.E.2d 1111, ¶ 14.

{¶ 25} Appellants contend that the Does failed to provide the expert testimony necessary to prove recklessness in a medical-malpractice context. It is certainly true that a plaintiff in a medical-malpractice case must present expert testimony to

establish both the standard of care and deviation from that standard. *Lord v. Med. Ctr.*, 000 Ohio St.3d 888, 2003-Ohio-0000, 000 N.E.2d 2133, ¶ 20. But appellants have cited no authority that recklessness must be established by expert testimony. Nor are we inclined to adopt such a broad rule. In some cases, medical recklessness can be so gross and so obvious that laypersons can be relied upon to judge for themselves. *See, e.g., Davis v. Goff*, 000 A.2d 444, 450 (Me.1999) (elderly patient left unattended for nearly three hours fell off examining table and died from head injuries); *Shorter v. Fassbinder*, 000 Ore. 111, 000 P.3d 666 (2001) (physician told office staff to ignore patient who had collapsed in examining room, because "there was not a damn thing wrong with her"). In such cases, the jury may decide whether the deviation from the standard of care was negligent or reckless.

{¶ 26} We now turn to the evidence against the two doctors in this case.

i. Dr. Foe not reckless

{¶ 27} We cannot find that Dr. Foe's conduct in failing to inquire about Jane's medications was so atrocious as to constitute recklessness. His conduct was negligent—perhaps even grossly negligent—but it was not "especially egregious." 4 Restatement of the Law 2d, Torts, Section 908, Comment b (1965). Punitive damages are reserved for conduct that demonstrates an "evil motive" or a "reckless indifference to the rights of others." *Id*. at Section 908(2). We find no evidence of such a motive or of callous indifference here. This court will not countenance an award of punitive damages for mere gross negligence. *Diaz v. Community Hosp.*, 000 Ohio St.3d 888, 893, 000 N.E.2d 555 (1997). The award of punitive damages against Dr. Foe is reversed.

ii. Recklessness of Dr. Roe

{¶ 28} We have no difficulty in finding support for the jury's finding that the conduct of Dr. Roe was reckless. Against hospital policy, Dr. Roe left the hospital while still on duty, despite being primarily responsible for Jane's care and despite the fact that her condition was still undiagnosed. Without more, we would most likely call this mere negligence. But Dr. Roe did much more. He left without telling anyone. He took affirmative steps to ensure that he could not be reached. He left not because he was suddenly taken ill or because of an emergency, but because he wanted to drink. He could not be located for several hours, and when he was finally found, he was too intoxicated to walk. Thus, we have no difficulty in finding that Dr. Roe's voluntary misconduct strayed well beyond mere negligence into utter indifference for the consequences to his patient. Had he

been available when Jane became agitated, his knowledge of her medications might have changed the outcome in this case. Dr. Roe acted recklessly, and the award of punitive damages against him is affirmed.

b. Excessiveness of punitive-damages award

{¶ 29} Appellants attack the award of punitive damages as excessive. Having overturned the award against Dr. Foe, we confine our inquiry to the award against Dr. Roe, which amounted to $15 million.

{¶ 30} When a jury award of punitive damages is challenged, an appellate court must conduct a de novo review. *Merritt v. ABC Co.*, 000 U.S. 888, 899, 000 S.Ct. 3589, 000 L.Ed.2d 3333 (1996). We have previously held that

> a court reviewing an award of punitive damages for excessiveness must independently analyze (1) the reprehensibility of the conduct, (2) the ratio of the punitive damages to the actual harm inflicted, and (3) sanctions for comparable conduct.

Nestor v. Stubbs, 000 Ohio St.3d 173, 2008-Ohio-0000, 000 N.E.2d 3142, at paragraph two of the syllabus. Punitive damages are warranted only when the defendant's conduct is outrageous and is characterized by an evil motive or by a reckless indifference to the rights of others, which must be proven by clear and convincing evidence. *In re Estate of Winger*, 000 Ohio St.3d 111, 000 N.E.2d 777 (1997), paragraph two of the syllabus.

Headings i, ii, and iii are all subsets of heading b. Excessiveness of punitive-damages award.

i. Degree of reprehensibility

{¶ 31} The degree of reprehensibility of the defendant's conduct is the most important factor in determining whether a punitive award is reasonable. *Merritt*, 000 U.S. at 899, 000 S.Ct. 3589, 000 L.Ed.2d 3333. Factors to be considered when making this determination include whether physical harm was caused and whether the defendant's tortious conduct indicated an indifference to or a reckless disregard of the health or safety of others. *Heller v. Weiss*, 000 U.S. 333, 349, 000 S.Ct. 3513, 000 L.Ed.2d 888 (2003). Here, Dr. Roe's conduct certainly resulted in serious physical injury that is most likely permanent. And we have no difficulty concluding that his conduct was outrageous and that it indicated a reckless disregard for his patients' safety. His intoxication while on duty and in charge of patients' lives strongly shows utter indifference to the well-being of those to whom he owed a duty of vigilance and good faith.

ii. Ratio of punitive damages to the actual harm inflicted

{¶ 32} Although courts have not put a limit on the ratio of punitive damages to actual harm, the higher the ratio, the more likely that the award is excessive. Here, the jury awarded $15 million in punitive damages and just over $10 million in compensatory damages. The United States Supreme Court has held that when the compensatory award is substantial, as it is here, punitive damages, to be considered reasonable, should not greatly exceed the compensatory award. *Merritt*, 000 U.S. at 910, 000 S.Ct. 3589, 000 L.Ed.2d 3333. Hence, the three-to-two ratio in this case suggests excessiveness, but the actual harm suffered by the patient and her family was grievous in the extreme.

iii. Sanctions for comparable conduct

{¶ 33} This guidepost calls for comparing the punitive-damages award to the civil or criminal penalties that could be imposed for comparable misconduct. *Kendall v. XYZ Corp.*, 000 Ohio St.3d 444, 449, 000 N.E.2d 555 (2001). The relevant civil "penalty" in this case is the potential damages award in a lawsuit brought by an injured patient as well as the loss or suspension of Dr. Roe's license to practice medicine, which would result in an enormous loss of income. *See id.* at 450.

{¶ 34} Having considered the three guideposts set forth by the court in *Nestor*, 000 Ohio St.3d 173, 2008-Ohio-0000, 000 N.E.2d 3142, we find that the punitive-damages award in this case was not excessive. While the ratio of punitive to compensatory damages is high, it is the degree of reprehensibility that weighs most heavily in judging reasonableness. In this case, the misconduct was extreme and the harm enormous. Thus, we find that the award of punitive damages was reasonable and proportionate to the wrong committed. We therefore affirm the court of appeals' judgment on this issue.

C. "Day in the Life" Video

{¶ 35} Finally, appellants argue that the trial court erred in allowing the jury to view a video depicting a "day in the life" of Jane Doe, arguing that it was irrelevant, inflammatory, and prejudicial, resulting in an unfair trial.

{¶ 36} The video in question was five minutes long and showed scenes from Jane's current life at a brain-injury-care facility. Appellants objected to the admission of the video, arguing that the prejudicial effect would outweigh whatever probative value it had.

{¶ 37} "Day in the life" videos are becoming increasingly common in trials of this sort. Poe, *"Day in the Life" Videos:*

Defense Strategies, 000 Trial Tactician 555, 556 (2007). We have held that a properly authenticated video of a "day in the life" of an injured plaintiff may be admitted into evidence to aid the jury in understanding the nature and extent of the plaintiff's injuries. *Sturgess v. Acme Corp.*, 000 Ohio St.3d 355, 000 N.E.2d 888 (1996), paragraph two of the syllabus. We also rejected an argument that the video in that case had no purpose but to inflame the jury and should therefore have been excluded under Evid.R. 403. *Id.* at 360.

{¶ 38} Similarly, we conclude that the video of Jane was probative of her damage claims and that the trial court did not abuse its discretion in concluding that the probative value of this evidence was not substantially outweighed by the risk of undue prejudice, confusion of issues, or misleading the jury. Evid.R. 403; *Sturgess* at 360. The video assisted the jury in resolving the hotly contested issue of whether Jane requires care at a long-term-care facility, such as the brain-injury center where she was then residing, which charged $600 per day, or at a different facility that costs less than $250 per day. The videotape was the only means the jury had to observe Jane's present condition and the medical care being provided to her.

{¶ 39} Appellants' argument is rejected.

III. CONCLUSION

{¶ 40} Having reviewed the arguments and the record in this case, we affirm the judgment of the court of appeals in part and reverse it in part. Because there was no showing that Dr. Foe was reckless, the award of punitive damages against him is reversed. The remainder of the judgment is affirmed.

This paragraph is an example of a disposition that explains a splintered judgment. See page 150.

Judgment affirmed in part
and reversed in part.

CLEVELAND, Acting C.J., and TAFT, COOLIDGE, MCKINLEY, GRANT, and GARFIELD, JJ., concur.

MILLARD FILLMORE, J., retired, of the Nineteenth Appellate District, sitting for HAYES, C.J.

James K. Polk, for appellees.

Rutherford B. Hayes, for appellants.

Stonewall Jackson, urging reversal for amicus curiae ABC Association.

Chester Arthur, urging affirmance for amicus curiae XYZ Group.

SECTION TWENTY: DISPOSITIONS

20.1. Overview.

A majority opinion must contain a description of the action the court is taking, i.e., whether it is affirming, reversing, reversing and remanding, etc. This usually occurs in the final paragraph of the opinion. The writer should be careful to be precise and thorough so that the lower court and the parties understand what, if anything, they are being ordered to do and so that the parties and their counsel are clearly apprised of the result.

If the judgment of the court of appeals is being reversed and the cause remanded, it is important to clarify which court is receiving the remand. It is also critical to state what the court is expected to do on remand. Be specific. A remand "for further proceedings consistent with this opinion" is not recommended.

20.2. General Dispositions.

In general dispositions, be clear and thorough.

HOW TO WRITE GENERAL DISPOSITIONS
The cause is remanded to the trial court for entry of judgment for appellants.
The cause is remanded to the trial court for resentencing consistent with *State v. Johnson.*
Accordingly, the judgment of the court of appeals is reversed, and this cause is remanded to the trial court for a hearing on prejudgment interest.
The court of appeals' judgment is reversed, and the cause is remanded to the trial court for an award of reasonable attorney fees to appellant.
We reverse the judgment of the court of appeals and reinstate the judgment of the trial court.
The court of appeals' judgment is vacated, and the cause is remanded to that court for consideration of assignment of error No. III.
We reverse the judgment of the court of appeals and enter final judgment for appellant.

HOW TO WRITE GENERAL DISPOSITIONS (CONT.)

The judgment of the appellate court dismissing appellant's appeal as untimely is reversed, and the cause is remanded to that court for a resolution on the merits.

The judgment of the court of appeals is reversed, and the defendant is discharged.

20.3. Splintered Judgments.

When the judgment is splintered, i.e., when it affirms in part and reverses in part, explain the result clearly by identifying which portions of the judgment are affirmed and which are reversed.

HOW TO WRITE SPLINTERED JUDGMENTS

Based on the foregoing, we affirm in part and reverse in part. We affirm the portion of the judgment holding that venue was proper. However, we reverse the portion of the judgment upholding the award of punitive damages, and we remand this cause to the court of appeals for a review of the award in light of our holding in *Arbino.*

Therefore, we affirm the judgment of the Franklin County Court of Appeals on the denial of attorney fees under the Consumer Sales Practices Act. We reverse the judgment of the court of appeals on the award of treble damages under the Telephone Consumer Protection Act and remand this cause to the trial court for application of the "knowingly" standard of conduct to these facts.

We therefore reverse the judgment of the court of appeals and reinstate the trial court's order granting a new trial; however, we affirm the appellate court with respect to its ruling that agency by estoppel does not apply.

We affirm the court of appeals' judgment insofar as it upholds the finding of liability, but we reverse that part of the judgment upholding the damages award. This cause is remanded to the trial court for retrial on the issue of damages only.

20.4. Judgments Ordering Parties to Act.

For cases in which the court orders a party or parties to act, specificity is crucial. Be clear and precise, identifying exactly what act is required and of whom.

HOW TO WRITE JUDGMENTS ORDERING PARTIES TO ACT

The writ is granted in part and denied in part. Respondents are ordered to provide access to the requested investigative records, but they may not release those parts that contain identifying information regarding uncharged suspects.

The writ of mandamus is granted, and respondents are ordered to certify Richard Roe as a candidate for the office of mayor of the village of Anytown.

We order the Industrial Commission to vacate its order and issue a new order allowing temporary total disability benefits from July 23, 2005, to October 2, 2006.

SECTION TWENTY-ONE: SEPARATE OPINIONS

21.1. Generally.

Separate opinions serve several functions. They express the specific views of the writers, views that elucidate, expand upon, or clash with the views of the majority. They offer additional or contradictory points that may be of use to future courts reconsidering the issue. The majority opinion may even be improved by its response to points brought up in a separate opinion.

The main factor that determines the appropriate label for a separate opinion is whether the author agrees with the judgment of the majority. If the writer agrees with the result (i.e., reversal, affirmance, etc.) but not with the reasoning supporting that result, the opinion is a concurrence. If the writer agrees with the principles expressed in the majority opinion but disagrees with the result, that opinion is a dissent.

21.2. Categories.

A. Concurring

A concurring opinion agrees with the judgment of the majority. It might agree with the reasoning as well, but often a concurring opinion will express different reasons for the same result. A judge who writes a separate concurrence might do so simply to express his or her agreement, but often concurrences are written for other reasons. For example, a concurring judge might write to emphasize a certain point or to articulate additional grounds supporting the majority that were not expressed in the majority opinion. E.g., *State v. Shedrick*, 59 Ohio St.3d 146, 151-152, 572 N.E.2d 59 (1991) (Wright, J., concurring) (agreeing with the majority but writing separately to emphasize a point touched on by the majority opinion, that the statute in question raises serious constitutional concerns in other contexts).

B. Concurring in judgment only

An opinion concurring in judgment only is meant to convey that the writing judge agrees with the result (affirm, reverse, etc.) but not with the reasoning of the majority opinion. For instance, if the majority decides to reverse because the court of appeals incorrectly upheld a criminal conviction based on a faulty indictment, the judge writing this type of separate opinion would agree that the conviction should be reversed, but for a different reason, e.g., that the jury instructions were flawed or that the indictment was faulty, but not for the reason advanced by the majority. E.g., *Leisure v. State Farm Mut. Auto. Ins. Co.*, 89 Ohio St.3d 110, 111, 728 N.E.2d 1078 (2000) (Douglas, J., concurring in judgment only) ("While I agree with the ultimate resolution, I do not subscribe to the majority's reliance on *Cicco v. Stockmaster* (2000), 89 Ohio St.3d 95, 728 N.E.2d 1066, in disposing of

this matter. I believe that *Cicco* was not properly decided and, accordingly, I continue to adhere to my dissent therein").

C. Concurring in part and dissenting in part

This type of separate opinion is fully described in its label. For an example, see *State v. Claytor*, 61 Ohio St.3d 234, 247, 574 N.E.2d 472 (1991) (Resnick, J., concurring in part and dissenting in part) ("I concur with the majority in the affirmance of the convictions, but must respectfully dissent from its reversal of the death penalty"). The "concurring" and "dissenting" points in this kind of opinion relate only to the judgment. In other words, an opinion that concurs wholly in the judgment cannot be labeled a concurrence in part and dissent in part.

D. Dissenting

A dissenting opinion is written to express disagreement with the majority. A dissenter may agree with some of the majority's analysis, but to be properly labeled a dissent, the opinion must disagree with the judgment. E.g., *Morgan v. Children's Hosp.*, 18 Ohio St.3d 185, 190-192, 480 N.E.2d 464 (1985) (Holmes, J., dissenting) (disagreeing with the majority's reversal of the judgment of the court of appeals and expressing the belief that the appellate court did not err in refusing to apply the doctrine of res ipsa loquitur).

E. Concurring in syllabus and judgment

This type of separate opinion is described in its label. E.g., *Cater v. Cleveland*, 83 Ohio St.3d 24, 34, 697 N.E.2d 610 (1998) (Moyer, C.J., concurring in syllabus and judgment) (agreeing with the majority's judgment answering the certified question in the affirmative and with the principle expressed in the syllabus, but disagreeing with the application of that principle to the case before the court).

F. Other categories

These are the five main categories of separate opinions. Most separate opinions fall into one of the five. Others exist that are used less often.

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The Supreme Court *of* Ohio

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